BOUNDARIES AND DOMINION

Volume 2

BOUNDARIES AND DOMINION

AN ECONOMIC COMMENTARY ON LEVITICUS

Volume 2

GARY NORTH

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Boundaries and Dominion: An Economic Commentary on Leviticus, Volume 2

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TABLE OF CONTENTS

Volume 1

Foreword ix
Preface xxv

Introduction 1

Introduction to Part I: Sacrifices (Lev. 1–7) 29
1 Sacrifice, Stewardship, and Debt (Lev. 1:1–4) 35
2 Priestly Representation (Lev. 2:1–3) 60
3 Leaven and Progressive Sanctification (Lev. 3:1, 17) 68
4 Corporate Responsibility (Lev. 4:1–3, 22–24) 100
5 Proportional Payments to God (Lev. 5:6–7, 11–12) 154
6 Sacred, Profane, and Common (Lev. 5:14–19) 172
7 Guardian of the Civil Oath (Lev. 6:1–7) 220

Introduction to Part II: Cleansing (Lev. 8–16) 253
8 Wine as a Boundary Marker (Lev. 10:8–11) 255
9 Biblical Quarantine (Lev. 13:45–46) 272

Introduction to Part III: Separation (Lev. 17–22) 289
10 The Promised Land as a Covenantal Agent (Lev. 18:24–29) 291

Volume 2

11 Gleaning: Charity Without Entitlement (Lev. 19:9–10) . . . 311
12 Verbal Bonds and Economic Coordination (Lev. 19:11–12) . . 348
13 Protecting the Weakest Party (Lev. 19:13–14) 365
14 Impartial Justice vs. Socialist Economics (Lev. 19:15) 390
15 Local Justice vs. Centralized Government (Lev. 19:15) . . . 426
16 The State's Monopoly of Vengeance (Lev. 19:18) 453

17 The Preservation of the Seed (Lev. 19:19) 474
18 Covenantal Fruit (Lev. 19:23–25) 508
19 Measuring out Justice (Lev. 19:33–37) 529
20 Inheritance by Fire (Lev. 20:2–5) 568
21 Inheritance Through Separation (Lev. 20:22–26) 597

Introduction to Part IV: Covenantal Acts (Lev. 23–24) . . . 613
22 Mutual Self-Interest: Priests and Gleaners (Lev. 23:22) . . . 615

Volume 3

Introduction to Part V: Inheritance (Lev. 25–27) 629
23 The Sabbatical Year (Lev. 25:1–7) 635
24 Boundaries of the Jubilee Land Laws (Lev. 25:8–13) 655
25 Economic Oppression by Means of the State (Lev. 25:14–17) . . 692
26 Food Miracles and Covenantal Predictability (Lev. 25:18–22) . . 715
27 The Right of Redemption (Lev. 25:23–24) 727
28 Poverty and Usury (Lev. 25:35–38) 748
29 Promise, Adoption, and Liberty (Lev. 25:39–43) 765
30 Slaves and Freemen (Lev. 25:44–46) 787
31 Mandatory Redemption Upon Payment (Lev. 25:47–55) . . 812
32 Nature as a Sanctioning Agent (Lev. 26:3–6) 825
33 Limits to Growth (Lev. 26:9–10) 842
34 God's Escalating Wrath (Lev. 26:13–17) 860
35 The Priesthood: Barriers to Entry (Lev. 27:2–8) 867
36 The Redemption-Price System (Lev. 27:9–15) 886
37 Tithing: The Benefit of the Doubt (Lev. 27:30–33) 905

Conclusion 911

Volume 4

APPENDIX A—Sacrilege and Sanctions 935
APPENDIX B—Rushdoony on the Tithe: A Critique 949
APPENDIX C—Leaven as Exclusively Evil 1003
APPENDIX D—Greek Mythology:
The Myth of Classical Politics 1021
APPENDIX E—The Covenantal Structure of Judgment 1041
APPENDIX F—Rushdoony on "Hybridization" 1063
APPENDIX G—Malthusianism vs. Covenantalism 1085
APPENDIX H—Conspiracy, Forgery, and Higher Criticism . . . 1121
APPENDIX I—Critics of the Five-Point Covenant Model 1135

11

GLEANING: CHARITY WITHOUT ENTITLEMENT

> *And when ye reap the harvest of your land, thou shalt not wholly reap the corners of thy field, neither shalt thou gather the gleanings of thy harvest. And thou shalt not glean thy vineyard, neither shalt thou gather every grape of thy vineyard; thou shalt leave them for the poor and stranger: I am the* LORD *your God.*
>
> LEVITICUS 19:9–10

I covered certain aspects of gleaning in *Tools of Dominion* (1990).[1] I think it is appropriate to reprint the bulk of that material in this chapter (though not in the same order), since readers may not have easy access to *Tools of Dominion* or the replacement volume, Part 3 of *Authority and Dominion* (2012).

The theocentric principle that undergirds this law is this: God shows grace to man in history by allowing mankind access to the fruit of God's field, His creation. Put another way, God allows mankind *inside the boundaries* of His field. Fallen man is in the position of the poverty-stricken, landless Israelite or stranger. God does not exclude externally cursed mankind from access to the means of life in history. Neither were land owners in post-conquest Mosaic Israel to exclude the economically poor and judicially excluded residents of the land.

A. Gleaning: A Moral Model

Gleaning was a form of morally compulsory charity. It remains the primary *moral* model for biblical charity, but, as I hope to show, it is ***not*** a *literal* model for modern charity. Most men today live in a

1. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), ch. 53:D–E.

non-agricultural society. Perhaps this may change someday, perhaps during a temporary economic or military apocalypse, but life is primarily urban today. *In a non-agricultural society, gleaning cannot become a literal model for charity*. Morally, however, gleaning is to be our guideline for charity: those in the community who have been called in the West "the deserving poor" are to be allowed to do hard work in order to support themselves and improve their condition. God expects the more successful members of a community to provide economic opportunities for such willing laborers—opportunities for service.

As with every biblical law, this law is ultimately theocentric. The beneficiaries of this law were God's representatives in history, just as victims of crimes are representatives of God. *Crime is primarily an assault on God by means of a crime against man, who is made in God's image*.[2] Crime is man's attempt to bring unlawful negative sanctions against God by bringing them against one of His representatives. Charity is analogous to crime in this respect, but with this difference: the sanctions are both lawful and positive. Jesus warned of the words of God at the final judgment:

> And before him shall be gathered all nations: and he shall separate them one from another, as a shepherd divideth his sheep from the goats: And he shall set the sheep on his right hand, but the goats on the left. Then shall the King say unto them on his right hand, Come, ye blessed of my Father, inherit the kingdom prepared for you from the foundation of the world: For I was an hungred, and ye gave me meat: I was thirsty, and ye gave me drink: I was a stranger, and ye took me in: Naked, and ye clothed me: I was sick, and ye visited me: I was in prison, and ye came unto me. Then shall the righteous answer him, saying, Lord, when saw we thee an hungred, and fed thee? or thirsty, and gave thee drink? When saw we thee a stranger, and took thee in? or naked, and clothed thee? Or when saw we thee sick, or in prison, and came unto thee? And the King shall answer and say unto them, Verily I say unto you, Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me (Matt. 25:32–40).

B. A Lawful Claim: Moral or Legal?

God announced that the poor people and resident aliens in Israel were to be invited in by the land owner so that they could harvest the corners of the field and the fallen grain. This meant that, as a class, they had a moral claim on the "droppings" of production. This also meant that they had no legal claim on the primary sources of

2. *Ibid.*, Appendix M:A.

income of an agricultural community. They were *invited* in. There was no state-financed welfare in Israel.

It would have been difficult for a judge or a jury to identify which individuals in the community had the legal right to bring charges against the land owner as the legal victims of his refusal to honor the gleaning laws. The text specifies no negative institutional sanction that had to be imposed on a land owner who refused to honor the gleaning laws. God is indirectly revealed as the agent who would bring negative sanctions against a land owner who refused to honor the gleaning laws. The state was not authorized by the text to bring these sanctions. This implies that *the sanctions were individual rather than corporate*. God did not threaten the community with negative sanctions. But without the threat of God's negative sanctions against the whole covenanted community, there was no justification for civil sanctions. Civil sanctions were imposed in Israel in order to substitute the state's subordinate wrath for God's more direct wrath against the community. Furthermore, in case of a violation of the gleaning law, there would have been no easy way to determine legitimate restitution. *Wherever are no civil sanctions, there is no crime*.

Were the sanctions implied by the general legal precept of victim's rights?[3] It is difficult to imagine the basis by which appropriate sanctions could be devised by the civil judges. *Lex talionis* ("eye for eye")? The land owner had inflicted no damage on the poor person. Double restitution? Double what? How much could the potential gleaner have gleaned from the field? How many local potential gleaners could sue? All of them? Did each of them have a lawful claim against the land owner, no matter how small his fields? There was no way predictably to assess restitution.

Without predictable negative sanctions, there is no legitimate biblical role for civil government. The state's monopoly of violence is too great a threat to freedom, too great a temptation for those who would play God. The civil government had no jurisdiction over gleaning in the Mosaic economy.

God instructed owners to allow poor people to glean. This land was His (Lev. 25:23); the whole earth is His (Ex. 19:5; Ps. 24:1[4]). As the permanent owner, God can tell His stewards how to administer His property. But God is the disciplining agent. He acts either as

3. North, *Authority and Dominion*, Appendix M.

4. Gary North, *Confidence and Dominion: An Economic Commentary on Psalms* (Dallas, Georgia: Five Point Press, 2012), ch. 5.

Kinsman-Redeemer or as Blood Avenger, depending on the legal status of the land owner. The law is in the form of a positive injunction, and biblical civil law is negative in scope: forbidding public evil. The priests, not the civil magistrate, would have had the responsibility of enforcing this law.[5]

Because God is the ultimate sanctions-bringer, and because it is difficult to specify the precise nature of the harm and the precise size of the restitution payment owed, the implication is that God would bring a curse against the owner, but the text does not say this. The further implication is that God would bring the curse of poverty against the harvester who attempted to cheat the poor by taking from the corner of the field or by picking up whatever had fallen to the ground. God would see what was being done, and He would assess an appropriate penalty.

So, the gleaning law was morally compulsory, but it was not clearly part of the Israelite civil code. *Without a specified negative civil sanction or without a way for the judges to assess damages, no law could be part of the nation's civil code*. But this law was part of God's law code. He would bring negative sanctions against the individual land owner. The civil code of Israel assumed that God is the sanctions-bringer in history and eternity, and therefore it was not regarded as foundational to civil society that the civil code legislate against every evil in history. The state was therefore not seen as messianic. This is no longer the case in the modern humanist world, where belief in the God of the Bible is not regarded as the public foundation of social order. The state today is seen by most people as the only relevant sanctions-bringer in history; thus, evil is defined as anything the state prohibits. On the other hand, all crimes are regarded as crimes against society. Criminals are expected to "pay their debt to society," meaning the state. They supposedly owe nothing to the individual victims.[6]

C. Bread and Wine

This law applied specifically to the field and the vineyard. It did not apply to any occupation except agriculture. It specifically speaks of the harvest, which indicates grain, and it also identifies grapes. This should alert us to the symbolic point of reference, namely, the main products of grain and grapes: *bread and wine*. The sources of the two

5. Chapter 22.

6. Gary North, *Victim's Rights: The Biblical View of Civil Justice* (Tyler, Texas: Institute for Christian Economics, 1990).

foods that God invites us to eat with Him in the holy meal of the church are identified here as being under the authority of the gleaning law. This law pointed forward in time to the grace of the New Covenant. It had eschatological implications. It established as holy—judicially set apart—the ground that produces the two holy foods of the communion meal of the New Testament.

The communion meal is holy in the New Covenant era. The land of Canaan was holy in the Mosaic Covenant. That is to say, a holy meal is judicially set apart by God today, just as a holy land was judicially set apart in the Mosaic Covenant. This is why there were judicial limits placed on the applicability of the gleaning law. *The gleaning law identified the special boundaries of God*. These boundaries were historically unique. This is why we must be careful to avoid extending the gleaning law to areas that it did not cover in the Mosaic Covenant.

There is another consideration. *In the Bible, there is an eschatological movement* ***from the garden to the city***. Genesis 2 begins in a garden. The tree of life is in the garden. Revelation 20 and 21 end in a city. This city has the tree of life in its midst (Rev. 22:2). We see a fusion of the city and the garden in the final chapters of the Book of Revelation.[7] In the Mosaic Covenant, we see a greater emphasis on rural life than we see in the New Covenant, but the New Covenant does not exclude the imagery of the garden.[8] The law of gleaning was an aspect of this earlier social order.

The question is: Do the terms of this law still apply in the New Covenant? To answer this, we first need to know the extent of gleaning in the Mosaic Covenant era.

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7. Presumably, as time goes on, we shall see a fusion of the two images in society. This process may be about to begin in the United States. The suburban culture in the late twentieth century was being threatened by the economic and moral breakdown of the large inner cities that spawned suburbia. The next great migration may be out of suburbia toward more rural areas, but with imported technology as the basis of the new economy. See Jack Lessinger, *Penturbia* (Seattle, Washington: SocioEconomics, 1991).

8. In 1975, Patrick Boarman, who studied under Wilhelm Röpke and who translated his *Economics of the Free Society* into English (Chicago: Regnery, 1963), told me of an exchange between Röpke and an unnamed humanistic, free market economist. The economist was visiting Röpke's home outside of Geneva. Röpke had a garden. "That is not an efficient way to produce food," his visitor said. Röpke's reply was classic: "It is an efficient way to produce men." A variation of this story is repeated by Russell Kirk, who says that the visitor was Ludwig von Mises. I do not recall hearing this from Boarman. Russell Kirk, "Foreword" (1992), Wilhelm Roepke, *The Social Crisis of Our Time* (New Brunswick, New Jersey: Transaction, [1942] 1992), p. ix.

D. The Economics of Gleaning: Who Paid, Who Benefitted?

What was the economics of the gleaning law? In a sense, the requirement that the land owner and professional harvesters leave a small portion of the crop for the gleaners made this portion analogous to the manna that God had supplied to the Israelites during the wilderness wandering. That miraculous though predictable food was a pure gift of God. Similarly, both the produce of the land and God's grace in establishing the requirement that the land owners and harvesters share with the gleaners were signs of God's continuing grace to the poor. The gleaners were visibly dependent on God's grace for their survival. This had also been the case for the whole nation in the wilderness.

Gleaning laws were exclusively agricultural laws. God commanded the harvesters of the field and the vineyard to be wasteful—wasteful in terms of their personal goals, but efficient in terms of God's goals. They were to leave part of the produce of both the vineyard and the grain field for gathering by the poor.

This law indicates that *the leftovers of the Promised Land belonged to God*. God transferred the ownership of these high harvesting cost economic assets from the land owner and the harvester to the poor and the stranger. The owner in one sense did benefit, at least those owners who paid their field hands wages rather than by the supply harvested, i.e., piece-rate payment. The obedient owner did not have to pay salaried harvesters to collect marginal pickings. This lowered his labor cost per harvested unit of crop. But the net income loss as a result of gleaning did lower his return from his land and planting expenses. There is no doubt that this economic loss of net revenue constituted a form of compulsory charity. It was a *mandated positive sanction*. This should alert us to the fact that this law was *not* a civil law. It was rather a church-enforced law. The church, not the state, is to bring positive sanctions in history. The church offers Holy Communion, not the state.

The gleaning law was also to some extent an advantage to the piece-rate harvester because he was able to achieve greater output per unit of time invested. He was not expected to spend time gathering the marginal leftovers of the crop. *Marginal* returns on his labor invested were higher than they would have been had it not been for this law. Nevertheless, both the owner of the land and the piece-rate harvesters did suffer a loss of *total* income because of this law. The harvesters saved time but gathered less. They did suffer a loss of in-

come compared to what they would have earned apart from this law.

How did piece-rate harvesters suffer a loss of total income? Because they could not lawfully gather the total crop of the field or the vineyard. Each worker had to leave some produce behind, which means that his income suffered. This also means that the poor of the community were in part funded by the *slightly less poor*: the piece-rate harvesters. The harvesters were reminded of the burdens of poverty. This in effect became an *unemployment insurance* program for the harvesters. They knew that if they later fell into poverty, they would probably be allowed to participate as gleaners sometime in the future. They forfeited some income in the present, but they did so in the knowledge that in a future crisis, they would be able to gain income from gleaning. Both the land owner and the piece-rate worker financed a portion of this compulsory insurance program.

The law placed a burden on the landowner. Yet this burden was in fact a form of liberation *if* he acknowledged the covenantal nature of the expenditure. It was analogous to the tithe. By honoring it, he was acknowledging God's sovereign ownership of his land. This act of sharing placed him visibly in the service of the great King. That King was his protector, for he was a vassal. As with rest on the sabbath, the owner could rest confidently in the knowledge that the King would defend his interests as a vassal if he abided by the terms of the King's treaty.

There was another benefit to the faithful owner, according to Aaron Wildavsky, one of the most informed experts in the world on the history of taxation.[9] He was also a student of the Mosaic law. He wrote of the gleaning law that "Compulsiveness easily converts to fanaticism. The farmer who harvests not 99% of his crop but every last little bit becomes consumed by his compulsion. Soon enough excess—getting it all—becomes an overwhelming passion."[10] He quite properly identified fanaticism as idolatry.[11] The gleaning law restrained the idolatry of greed. It reminded rich men that they did not need to keep everything they managed as God's stewards in order to remain successful. It restrained them from the passion of autonomous man: defining themselves in terms of their wealth rather than their obedience to God.

9. Carolyn Webber and Aaron Wildavsky, *A History of Taxation and Expenditure in the Western World* (New York: Simon & Schuster, 1986).

10. Aaron Wildavsky, *The Nursing Father: Moses as a Political Leader* (University, Alabama: University of Alabama Press, 1984), p. 30.

11. *Idem*.

E. Hard Work

The gleaner had to work harder than the average worker did in order to gain the same quantity of crops. The "easy pickings" were gone by the time the gleaner was allowed into the fields. This means that he had high marginal labor costs. That is, he had to invest more labor per unit of crop harvested than the piece-rate harvester did. Assuming that the harvester's goal was a higher return on labor invested, it was preferable to be a piece-rate worker than to be a gleaner. To be a gleaner was to be in a nearly desperate condition.

In the case of both piece-rate work and gleaning, most of the labor costs of harvesting were borne by the poor. The rich man did not work in the fields. But there were degrees of poverty. By far, the greater cost per unit harvested was borne by the gleaners. In modern terminology, this might be called a *workfare* program instead of a welfare program. The gleaner was not a passive recipient of someone else's money. He had to work. Furthermore, marketing costs may actually have been borne by the poor. It would have been legal for the poor individual to take whatever pickings he gained from the field and go to a store owner or other purchaser of the crop. The owner of the land did not have the right to compel the gleaner to sell the gleanings to him. This means that the gleaner was enabled to obtain a competitive market price for the output of his labor. Of course, this would have been extra work and risk for the gleaner, and it involved specialized knowledge of markets. Nevertheless, it was a right that the gleaner possessed.

The poor were invited into the unharvested fields only in the sabbatical year (Lev. 25:4–7).[12] They had to earn every bit of the produce they collected. It was not a chosen profession for sluggards. But for those who were willing to work, they would not perish at the hands of men who systematically used their competitive advantage to create a permanent class of the poor.

There was another great advantage to this form of morally enforced charity: it brings hard-working, efficient poor people to the attention of potential employers. There is always a market for hard-working, efficient, diligent workers. Such abilities are the product of a righteous worldview and a healthy body, both of which are gifts of God. It always pays employers to locate such people and hire them. In effect, employers in Mosaic Israel could "glean" future workers

12. Chapter 23.

from society's economic "leftovers." Gleaning appears initially to be a high-risk system of recruiting, for it required land owners to forfeit the corners of their fields and one year's productivity in seven. Nevertheless, God promises to bless those who obey Him. Gleaning really was not a high-risk system. Israel's gleaning system made charity local, work-oriented, and a source of profitable information regarding potential employees. Thus, the system offered hope to those trapped in poverty. They could escape this burden through demonstrated productivity. This is how Ruth, a stranger in the land, began her escape: she caught the attention of Boaz (Ruth 2:5).

F. More Food for Everyone

Under this system of charity, more of the crop got harvested than would otherwise have been the case. Professional harvesters entered the field first and got the easy pickings. The labor time of the professional harvester was devoted to the high-yield sections of the field or vineyard. This was economically efficient. Skilled harvesters devoted a greater portion of their time to the high-yield sections of the land, leaving the low-return portions of the field for the lower-skilled gleaners.

Furthermore, it was difficult for the owner to police this charity law as it applied to the harvesters. How could he watch every harvester to see that he really did leave the fallen grain on the ground? This is why the harvesters were required by God to exercise self-restraint in the amount of the crop that they harvested. They had to leave behind some leftovers. But there was an economic incentive for them to do this. Their time would be spent more productively by gathering the easy pickings. This means that a greater percentage of the crop would have been harvested under the gleaning law, for two reasons. First, the harvesters would have tended to harvest a larger percentage of the crop, hour for hour, than the gleaners did. Second, the gleaners were highly dependent on this food. This means that they would have exercised great diligence and care to strip the field of any remaining grain after the professional harvesters had done their work.[13] This was

13. It is true that humanistic economic science cannot legitimately draw such a conclusion from economic theory alone. To do so would involve making interpersonal comparisons of subjective utility, a practice which Lionel Robbins exposed as nonscientific as early as 1932: *The Nature and Significance of Economic Science*, 2nd ed. (London: Macmillan, 1935), ch. 6. I am assuming, contrary to what humanist economics officially allows, that very poor people will work harder and more thoroughly to harvest the crop's leftovers than comparatively well-fed harvesters will work to harvest leftovers.

a benefit for the community as a whole, since the community gained access to a larger quantity of food. There was less waste of the crop in the aggregate because of the *marginal* waste that was imposed by God's law on the land owners and the piece-rate harvesters.

There were also higher costs with this system. The extra labor expended by the inefficient gleaners was a true cost. The labor time of the gleaners could have been used to produce other products. The net economic return of the products and services that gleaners would otherwise have produced was the cost to consumers of the greater supply of food. *The gleaning system did subsidize food production at the expense of other products*. We shall consider the reasons for this later in this chapter. Suffice it to say here that one reason for this subsidy was connected with the accent on decentralization and localism that the land ownership system of Old Covenant Israel fostered.

Why weren't these poor people hired to harvest the crop in the first place? What was wrong with them? Answer: they were not the most efficient harvesters in the community. They were high-cost employees. But God wanted these people to learn how to work. He wanted them to become better servants. So, He set up a system that subsidized them as field laborers. This was the simplest work skill to learn, though not the most productive. They had to start at the bottom of the scale, since their skills had put them so far at the bottom that they were outside of the labor force. They had to become the lowest-paid field hands in the community.

We must be careful to distinguish total benefits from net benefits. If this system of compulsory charity was productive of net benefits on its own, then we should expect to see gleaning preached in New Testament times. We do not find this, however. So, are we to conclude that this system was economically productive then but not today? Do economic laws change? Do we find that by ignoring this law today, and allowing land owners to harvest all of their crops, the community is richer, yet by obeying this law, Israel was richer than it would have been if it had not obeyed? This is a dilemma for the Christian economist.

Part of the answer is found in Leviticus 26, where God's positive sanctions are promised to the nation if the people obey Him. The

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The motivation of the poor man to harvest leftovers is normally greater than the motivation of the professional harvester to harvest leftovers. On the question of interpersonal comparisons of subjective utility, see Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, [1982] 2012), ch. 5; North, *Authority and Dominion*, Appendix H: "The Epistemological Problem of Social Cost."

economic order was not autonomous. The economist would say that the system was not endogenous. It was exogenous. Something from outside the economy added wealth to it: *God's grace*. The required charity in the Mosaic Covenant that was tied to the land itself was based on the special relation that God had with both the land and the people. This relation to the land was changed at the fall of Jerusalem in 70 A.D. There had been preliminary alterations centuries before this, such as the post-exilic law that strangers in the land could inherit as part of the jubilee law (Ezek. 47:22–23).[14]

When God ceases to require obedience to a particular law, the grace (net benefit) attached to that law disappears. Thus, the land owner today can harvest all of his crop and not suffer God's negative sanctions (net losses) in history. He need not adhere to the gleaning law. The community is not harmed. As techniques of modern agricultural production change and net output increases, the increase of food production more than compensates for the loss of the older system and its net benefits. Costs per harvested plot of ground drop, and output per harvested plot increases. The free market in agriculture does not harm the community.

In the Promised Land, however, the special relation between God and the land led to higher output of food when this law of gleaning was honored. There were net benefits to the community based on obedience to this law. But this law was not intended to be permanent. It was also not intended to be universal. This law applied only in the land of Israel because it applied only *to* the land of Israel and those who owned and worked it. As we shall see in the next two sections, this restriction was due to two factors: (1) the tribal basis of land ownership in Old Covenant Israel; (2) the judicial designation of the land as God's agent of judgment.

G. The Two-Fold Basis of the Law of Gleaning

Is becoming a low-paid field hand God's universally required on-the-job training system? No. God no longer expects poor people to learn how to become field laborers. In Old Covenant Israel, however, it was important that men learn to serve Him locally. He wanted to preserve localism and tribalism.

14. Gary North, *Restoration and Dominion: An Economic Commentary on the Prophets* (Dallas, Georgia: Point Five Press, 2012), ch. 22.

1. Subsidizing Localism

The tribal system was important for the preservation of freedom in Israel. Tribalism and localism broke down attempts to centralize the nation politically. Thus, the gleaning law was part of the social order associated with Old Covenant Israel. It reinforced the tribal system. It also reinforced rural life at the expense of urban life—one of the few Mosaic laws to do so. The land owner was required by God to subsidize the rural way of life. Local poor people were offered subsidized employment on the farms. Had it not been for the gleaning system, the only alternatives would have been starvation or beggary in the country. They would have moved to the cities, as starving people all over the world do today.

The jubilee land inheritance laws kept rural land within the Israelite family. This land inheritance was the mark of civil freemanship for every tribe except the Levites. If a daughter inherited land because there was no brother, she could not marry outside her tribe if she wanted to keep the land. "Neither shall the inheritance remove from one tribe to another tribe; but every one of the tribes of the children of Israel shall keep himself to his own inheritance" (Num. 36:9).[15] While a rich man might move permanently to a city, the poor person was encouraged by the gleaning law to stay closer to home.

Cities would inevitably have become the primary dwelling places for most Israelites if they had obeyed God as a nation. Population growth would have forced most people into the cities. The size of family farms would have shrunk as each generation inherited its portion of the land. But until Israel's corporate covenantal faithfulness led to population growth and increased per capita wealth, each tribe's poor members were to be subsidized by the gleaning law to remain close to the tribe's food supplies. This law was a means of retarding the growth of an unemployed urban proletariat. The countryside was to be the place where the poor man received his daily bread. He would have to do simple agricultural labor to receive his food.

(a) Localism vs. Bureaucracy

The locus of both the enforcement and the concern of the gleaning law was local and tribal. Local people were the ones who gleaned the fields. This showed God's concern for tribal brethren in the local community. It also showed His concern for the strangers in the

15. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), ch. 22.

land who were willing to live under His laws. They, too, were local residents.

Why this concern with localism? Because biblical social order is supposed to reflect the cosmic personalism of the creation.[16] Personalism is the antithesis of bureaucracy. So is localism. Biblical law works against the creation of large bureaucracies. So does localism. Biblical law establishes primary responsibility at the local level. It is based on an appeals court system that begins at the local level (Ex. 18).[17] Bureaucracies lodge initiatory authority at the top, where the common rule book sets forth what is to be done, how, when, and under which conditions. Social coordination is supposed to be achieved through a detailed coordinated rule book. Local initiative thwarts the coordinated application of the rule book's rules.

Charity is not a profit-seeking activity. It is not governed by the market's system of matching supply with demand through the entrepreneur's profit motive. Charity is not restrained by the requirements of a profit-and-loss statement, although it is restrained by the supply of available funds. Without the restraining factor of the profit-and-loss statement, the administration of charity needs other formal guidelines for appropriate action. It needs a *book of order*. Charities are inherently bureaucratic: governed by the book, not by the free market; by the donor, not the customer.[18]

All bureaucracies have to be managed "by the book," and the book's standards are inherently impersonal. The larger the bureaucracy is, and the more distant its headquarters are, the more general and therefore the more impersonal the book. *Bureaucracies tend to become more impersonal as they grow*. Localism is necessary to overcome at least partially the inherent move toward bureaucracy in all non-profit management systems.[19] Mosaic localism was designed to be highly personalistic.

Because biblical civil law places negative sanctions on specific public actions, it allows freedom to do anything else. Men know in advance what is prohibited. This legal code is the only lawful, formal

16. North, *Sovereignty and Dominion*, ch. 1.

17. North, *Authority and Dominion*, ch. 19.

18. Except insofar as we consider donors as consumers: buyers of good feelings, self-worth, and future economic benefits should they fall on hard times.

19. There are in principle only two management systems, profit management and bureaucratic management. The difference between them is the financing. Bureaucratic management does not depend on the voluntary market responses of customers to offers made by entrepreneurs. Ludwig von Mises, *Bureaucracy* (New Haven, Connectcut: Yale University Press, 1944).

civil restraint on the public actions of men. *Everything else is allowed by the civil government*. We see this principle in operation most clearly in the garden of Eden. Adam was permitted to do anything except eat from one tree. In contrast, a perfectly bureaucratic social order allows only what the ever-growing law book permits. This requirement strangles individual initiative. People are forever having to ask permission from a bureaucrat—a person who is motivated above all by the fear of making a mistake, a person governed by a book of human laws, many of them conflicting. Thus, his instinctive answer to all requests is *no*. He can always retreat from *no*, and everyone will be happy. He cannot retreat from *yes* and make the requester happy. This system is the antithesis of personal responsibility under God, who says *yes* unless there is a good reason to say *no*. The steady extension of civil bureaucracy into market affairs is therefore the antithesis of biblical dominion.

(b) No Subsidy for Evil

Another important reason for localism was the concern of God that His resources not be used for evil purposes. Either the provider of this agricultural charity had to reside locally or else his specified agent had to. Local residents in rural Mosaic Israel were more likely to be well known to the land owners. Presumably, the cause of their poverty was also well known to the land owners, or at least this could be discovered without much difficulty. The gleaning system reduced the subsidy of evil. The poor person who was poor as a result of his own bad habits did not have to be subsidized by the land owner and the professional harvesters who worked his fields. The land owner had the right to exclude some poor people from access to his fields. Gleaning was therefore a highly personal form of charity, since the person who was required to give this charity was also the person who screened access to the fruit of the land.

This means that the gleaning law was a form of *conditional* charity in each individual recipient's case, although the loss was compulsory from the point of view of the land owner. *Biblical charity is always conditional.*[20] Charity is not to subsidize evil. Rushdoony's comments on this point are striking:

> In the name of Christian charity, we are being asked nowadays to subsidize evil. Every time we give in charity to anyone, we are extending a pri-

20. Ray R. Sutton, "Whose Conditions for Charity?" in *Theonomy: An Informed Response*, ed. Gary North (Tyler, Texas: Institute for Christian Economics, 1991), ch. 9.

> vate and personal subsidy to that person. If through our church we help an elderly and needy couple, or if we help a neighboring farmer with his tractor work while he is in the hospital, we are giving them a subsidy because we consider them to be deserving persons. We are helping righteous people to survive, and we are fulfilling our Christian duty of brotherly love and charity.
>
> On the other hand, if we help a burglar buy the tools of his trade, and give him a boost through a neighbor's window, we are criminal accomplices and are guilty before the law. If we buy a murderer a gun, hand it to him and watch him kill, we are again accessories to the fact and are ourselves murderers also.
>
> Whenever as individuals in our charity, or as a nation in that false charity known as foreign aid and welfare, we give a subsidy to any kind of evil, we are guilty before God of that evil, unless we separate ourselves from the subsidy by our protest.[21]

The local member of the land owner's tribe was the primary recipient of charity, but he was not the only one. The other recipient of the grace of gleaning was the stranger. These strangers were presumably resident aliens who had fallen on hard times. They might have been hired servants who could not find employment. They were people who did not want to go back to their home country. They were therefore people who wanted to live under the civil law of God in the Promised Land. These people were entitled to the same consideration that the poor Israelite was entitled to. It is clear that this arrangement would have increased the emotional commitment of the resident alien to the welfare of the community. He was treated justly.

2. The Land as God's Covenantal Agent

When Israel invaded the land under Joshua, this priestly act invoked the land's status as God's agent.[22] This special judicial office of the land was unique to the Mosaic era. The land was described as

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21. R. J. Rushdoony, *Bread Upon the Waters* (Nutley, New Jersey: Craig Press, 1969), p. 5. A good example of this sort of government charity is the case of the United States State Department's public insistence, a week before Saddam Hussein invaded Kuwait on August 2, 1990, that the Congress should not cut off the American government's subsidies to the government of Iraq. The State Department had been taking this line from May onward, despite Hussein's public statement in late February that the United States was an imperialist power. The economic aid, State Department spokesman John Kelly insisted, would enable the United States to exercise a stabilizing influence on Hussein. See "Kuwait: How the West Blundered: The signals that were sent—and the one that wasn't," *Economist* (Sept. 29, 1991), pp. 20, 22. The United States attacked Iraq on Jan. 16, 1991. The war lasted one month.

22. Chapter 10.

being under God and over man in a unique way in Israel. This was because of God's special presence in the temple. When this special presence of God ended in A.D. 70, the land of Israel lost this special judicial status. The land laws ended, including gleaning. This included the jubilee land laws and their applications.

Those few Christian social theorists who have taken gleaning seriously have tended not to acknowledge the close relationship between gleaning laws of the Old Testament and the presence of the people of Israel in the Promised Land. The original distribution of property in Old Testament Israel was based on a concept of a legitimate war of conquest. So was the land's status as God's covenantal agent. The land that families received after the Canaanites were defeated by Joshua's generation was part of a one-time-only national spoils system. The transfer of wealth was from the Canaanites to the Israelites. (Note: this involved the transfer of wealth from previously poor Canaanites to newly rich Israelites. God is not on the side of the poor, contrary to liberation theologians. He is on the side of the righteous. His covenantal goal is not that His people remain poor, let alone become poor. His goal is that His people become rich through covenantal faithfulness.)[23] God commanded and directed the execution of the various Canaanite societies. This is why God is again and again identified as the owner of the Promised Land. It was God who had given them their military victory, so He also had the legal right to specify how the land would be divided, inherited, and used. God established the terms of their leaseholds. As the owner, He had this right.

H. A Law of the Land, Not the Workshop

The gleaning law did not apply to non-agricultural businesses or professions. It originated from the fact that God declared Himself as the owner of the land—not land in general, but the Promised Land. He did not verbally claim an equally special ownership of businesses. The land, not business, was identified as God's covenant agent that brought God's covenant lawsuits in Old Covenant Israel.[24] God's legal relationship to the land was special. The land of Canaan, not

23. Gary North, "Free Market Capitalism," in Robert G. Clouse (ed.), *Wealth and Poverty: Four Christian Views of Economics* (Downers Grove, Illinois: InterVarsity Press, 1984). Reprinted in Gary North, *Inheritance and Dominion: An Economic Commentary on Deuteronomy*, 2nd ed. (Dallas, Georgia: Point Five Press, [1999] 2012), Appendix E.

24. Chapter 10.

existing Canaanite businesses, was divided up through the casting of lots after the conquest (Num. 34:13).[25] This allowed God to enter directly into the land-distribution process by controlling the lots. This was not an auction system of "high bid wins," as a free market is. This division of the land was an aspect of the spoils of military conquest. The gleaning law was therefore closely related to the jubilee land laws of Leviticus 25, which were also based on the spoils of the original military conquest of the land. The Promised Land occupied a unique place in the legal structure of Old Testament Israel. Business did not.

1. Urbanization and Specialization

In both agricultural and non-agricultural societies, non-agricultural occupations tend to be more specialized than agriculture. In the city, it is common to have many competing businesses and opportunities, each with its own talents, requirements, training, and traditions. Urban life enables society to achieve a greater division of labor and hence greater specialization in both production and consumption. This means that the urban economy achieves greater per capita wealth than a rural economy does.[26] But this high specialization requires more capital per worker.

A greater variety of occupations is available to potential workers in the city, which means that there is a far greater number of occupations available for an apprentice to master. He has to choose. He cannot do everything. This reminds him that he is not God. He has to find a teacher to train him in some specialized occupation. Parents in a pre-industrial era agricultural society could train their own children on the farm. Non-agricultural workers must be trained by specialists. But there were not many masters to train other men's children in specialized urban occupations. Most people had to stay on the farm. Until the twentieth century, the apprenticeship system for non-family members generally was much more common for urban businesses than for agriculture.[27] Only with the rise of the modern university and

25. Gary North, *Sanctions and Dominion*, ch. 14.

26. The development of nanotechnology, fiber optics, and other technological breakthroughs may in the future bring urban productivity to rural communities, at least until population growth makes such communities more urban. But there is still the question of corporate worship. The division of labor in a local church cannot be divorced from the size of the local church and the number of nearby churches.

27. It was a practice of the New England Puritans to send their children no later than age 14 into other homes in order to get their occupational training. Historian Edmund Morgan suggested that one reason for this custom is that the Puritans did not trust their own commitment to discipline their children sufficiently to make them reliable

the spread of public education, both funded primarily by taxes, has bureaucratic education replaced apprenticeship.

2. Management Costs

There were higher management costs for the owner of land during the gleaning operation. Gleaners had to be screened by the owner or by his representative or operations manager. This increase in management costs would have been especially true in urban occupations, had the requirements of gleaning applied to them. It would have been much more difficult for a non-agricultural business owner to monitor all the operations of a team of gleaners than would have been the case on a farm. The gleaner on the farm simply went into the field and picked up a recognizable agricultural product. He put it into a container and either took it to the owner for sale or took it home for personal use or resale. It is much riskier for the owner of a specialized occupation to bring untrained workers into his shop and have them gain something of value through gleaning. There is greater risk that a thief could steal a valuable product or tool from the shop. There is little of value to steal in the middle of a field except the crop, and that was the gleaner's property.

The gleaning law applied only to agricultural land. Any attempt to derive a modern system of charity, public or private, from the gleaning law faces this crucial limitation. It was not intended to apply outside a farm. About the most that we can hope for is to discover principles of giving that do not violate the principles underlying gleaning. The principles of gleaning show modern man what should not be done generally, not what should be done specifically. They are universal principles of voluntary giving, not laws that God imposes on a specific class. God does not threaten to bring negative sanctions against a giver who ignores the principles of gleaning and chooses other ways to give. A man who gives cash to a deserving poor man is not in trouble with God. He does not have to make the poor man work in the giver's corn field. But if he thinks that the poor man may not be reliable with money, he has the right to require the man to submit to various tests, including setting up a budget. The basic principle is this: biblical charity is conditional.

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workers. Morgan, *The Puritan Family: Religion and Domestic Relations in Seventeenth-Century New England*, rev. ed. (New York: Harper & Row, 1966), p. 77.

I. Conditional Charity: Moral Boundaries

The owner of the farm had to acknowledge the sovereignty of God by obeying the gleaning laws. These laws were a reminder to him that *biblical authority always has costs attached to it*. The owner of the land had been given capital that other people lack. He therefore had an obligation to the local poor as God's agent, for the land itself was pictured as God's agent. His obligation was to supply the land's leftovers to the poor.

In making this demand, the gleaning law placed decisive limits (boundaries) on both the poor rural resident and the state. It limited the moral demands that the poor could make on economically successful people in the community. The poor had no comparable moral claim against the successful non-agricultural businessman. This law also limited the demands that the state could make on the community in the name of the poor. Biblical law specified that the man with landed wealth should share his wealth with the deserving poor, but not the poor in general. The deserving poor were those who were willing to work hard, but who could not find work in the normal labor markets. *In short, the gleaning law had conditions attached to it*. The idea of morally compulsory, non-conditional charity was foreign to the laws of the Mosaic Covenant.[28] The gleaner had to work very hard, for he reaped only the leftovers. This means his income was lower than would have been the case if he had been a professional harvester. Gleaning provides a lesson to the poor: *there are no free lunches in life*. Someone always has to pay. The economic terms of the gleaning system established that only destitute members of the community would have become gleaners. If there had been any other source of income besides begging, they would have taken it. The hard work and low pay of gleaning was an incentive for the individual to get out of poverty.

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28. It is equally foreign to the law of the New Covenant. This assertion appalled Timothy Keller. See Keller, "Theonomy and the Poor: Some Reflections," in William S. Barker and W. Robert Godfrey (eds.), *Theonomy: A Reformed Critique* (Grand Rapids, Michigan: Zondervan, 1990), pp. 273–79. He called for initially unconditional charity to all poor people. He argues that anyone in need anywhere on earth is my neighbor, thereby universalizing the moral claims of all poor people on the wealth of anyone who is slightly less poor. He wrote: "*Anyone* in need is my neighbor—that is the teaching of the Good Samaritan parable." *Ibid*., p. 275. He rejected the traditional Christian concept of the deserving poor (pp. 276–77). He concluded: "I am proposing that the reconstructionist approach to biblical charity is too conditional and restrictive." *Ibid*., p. 278. For my response, see North, *Westminster's Confession: The Abandonment of Van Til's Legacy* (Tyler, Texas: Institute for Christian Economics, 1991), pp. 271–73. See also Sutton, "Whose Conditions for Charity?" in North (ed.), *Theonomy*, ch. 9.

Gleaning provided the poor person with an opportunity to demonstrate publicly his capacity for hard work under difficult personal conditions. First and foremost, he had to admit that he was in a tight financial condition. Pride would work against him. He had to humble himself before God and other men. He had to ask for help. Without this, there can be no salvation, either spiritual or economic. Pride goes before the fall; it often continues after the fall. Second, the gleaner was not asking for a form of charity that involved no work on his part. He was not claiming charity as either an unconditional legal right or an unconditional moral right. He was not claiming an entitlement.[29]

Gleaning was conditional. All charity is conditional. There is always more demand for aid than there is supply. Resources are scarce; they must be allocated in terms of conditions. The question is: Which conditions are biblically appropriate for charity? The state-mandated welfare system imposes bureaucratic conditions: forms, income tests, and placating local welfare bureaucrats. Gleaning was conditional in terms of the standards of the person who actually provided the opportunity with his own assets, the land owner. The gleaner was asking for an opportunity to do a lot of hard work at a low rate of return. The owner could exclude lazy or immoral workers from his field. We are once again back to the issue of boundaries: *inclusion and exclusion*. This authority of the land owner meant that not only did the gleaner have an opportunity to demonstrate his capacity for hard work, he almost had to demonstrate it in order to gain continued access to the field. The owner of the field was not required to subsidize lazy people.

The gleaning system provided a *labor recruiting opportunity* for land owners. Boaz is the best example of this in the Bible (Ruth 2). He saw in Ruth a dedicated worker and a loyal daughter-in-law. He saw that she was ethically upright. She distinguished herself first in the fields. The opportunity to locate good workers is a valuable asset. The gleaning system was ideal in this regard. The owner was in close

29. The word "entitlement" refers to a legal claim on government money or services, or on money or services from private sources mandated by the government. It means "legal right to," as distinguished from "legal immunity from." The word seems first to have appeared in a United States government document in 1974. It has become a widely used substitute term for "public welfare" ever since the first year of Ronald Reagan's Presidency: 1981. Norman Ornstein, "Roots of 'Entitlements,' and Budget Woes," *Wall Street Journal* (Dec. 14, 1993), p. A16. See Thomas L. Friedman, "Clinton Wary of Cutting Entitlements," *New York Times* (Dec. 14, 1993), p. A12.

proximity to the gleaners. They were given a way to please the owner by working hard and efficiently. The owners of these fields could see which gleaners performed well under adverse conditions. This was an important aspect of the labor market. Owners who honored the gleaning laws were given access to very important information. This information enabled them to determine who among the poor would have been best qualified to be hired as regular field harvesters. This means that gleaners could move up to a higher income level if they were successful in being hired as full-time workers. This provided the gleaner with greater incentive to arrive early and work hard and efficiently.

This institutional escape hatch out of poverty was also a great incentive for the gleaner to take orders from the person who was over him in the fields. Gleaning was part of a system of subordination. Hierarchy is basic to all institutions, and those individuals who acknowledged this and made good use of it were enabled to get out of poverty in Old Covenant Israel. The way out of poverty for the agricultural worker was to be hired full-time. Work was the way of escape. This included obedience.

One of the important rules of management is that the best way to become a good manager is to be trained by a good manager. We could also say that the best way to become rich is to be trained by someone who has become rich. The land owner was successful. This was the best person to supervise the system that taught the poor man how to become successful. Furthermore, gleaning was a system that created incentive for the owner to provide a system to teach the poor man. The owner wanted skilled, effective workers to do the harvesting. The gleaning system was a specially designed means of locating and training hard-working people. To this extent, therefore, the gleaning system was really a system of local education in personal self-management by the poor, and also a system for the economically successful to locate productive employees. This system of relief for the poor rested on a system of hierarchy.

We must always remember that the gleaning laws operated within the framework of the jubilee land laws. The poorest Israelite in the community at some point would inherit from his father or grandfather a portion of the original family inheritance. The size of that portion of land depended on the number of male heirs. Its value depended on the economic productivity of local residents who could legally bid to lease it. The more productive the heir, the more likely

that he would be able to retain control over it.[30] Gleaning gave the poor Israelite an opportunity to gain management and other skills as a land owner prior to the time that he or his children would be given back the original family land grant through the jubilee land law. The gleaning law provided training that could in the future be converted into family capital. The gleaning law was designed to keep poor people in the local agricultural community.

J. Unconditional Charity: Political Boundaries

The law governing gleaning was not a civil law. This means that it was not compulsory. No individual gleaner had an enforceable legal claim on any land owner. The gleaning system was therefore not part of a civil government entitlements program.

1. Entitlements

An entitlement is a legal claim, enforceable in a civil court. A welfare entitlement program is backed by the threat of civil sanctions. It will eventually transform the character of any welfare program: from a scheme established to help humble people climb out of poverty into a program that keeps pride-filled people and people without initiative in lifelong poverty. An entitlement is neither charity nor temporary; it is a permanent legal claim based on coercive law. It is a state-mandated system of permanent subsidies to people who refuse to work and who resent every suggestion that this refusal is either unwise or immoral. The government pays people if they remain poor. Legally and economically, this cannot be distinguished analytically from paying people *to* remain poor.

The market responds to rising demand by increasing the supply of the item demanded: in this case, poverty. The more money the state pays to keep people poor, the larger the number of poor people produced by the system. This law of the market has not been violated in the field of entitlements: growing numbers of poor people appear on the scene in response to increases in entitlements.[31] There are moral

30. This legal right to inherit the family's land did not extend to the stranger until after the exile (Ezek. 47:22–23). North, *Restoration and Dominion*, ch. 22.

31. When the United States government's War on Poverty program began in 1965, the emphasis was on eliminating poor people's dependence on public assistance. Problem: the official poverty statistic does not measure progress toward this goal. To get around this limitation, Charles Murray defined the "latent poor" as those who show up below the officially defined poverty level, plus those who are above the poverty line only because they receive government assistance. Thus defined, latent poverty

repercussions that are associated with these increases. Professional welfare administrators advance their careers only if the demand for their services increases. In the wonderfully descriptive phrase of Shirley Scheibla, *poverty is where the money is*.[32] Thus, welfare administrators have an economic incentive to locate poor people and get them into the programs. A professionally managed entitlement system steadily removes the stigma of poverty from the thinking of the later generations of recipients and substitutes arrogance. The recipient knows that if he conforms to the welfare rule book, or appears to, the power of the state will extract his monthly income from taxpayers. He will get his money irrespective of any change in his behavior. In fact, evil behavior gets rewarded. Illegitimate children are added to the Aid to Dependent Children welfare rolls. Or: a riot—looting, arson—in which over four dozen people are killed leads to huge payments from the government.[33]

Resentment is created on both sides of these coercive transactions: the recipient thinks he should get more as a matter of right, both legal and moral, while the taxpayer thinks he should get less. The welfare recipient is not required to learn the skills and adopt the mentality of hope that are basic to any permanent escape from poverty. A permanent welfare class is created, thereby justifying the maintenance of a

went from one-third of the United States population in 1950 to 21% in 1965. Under President Lyndon Johnson's "War on Poverty" programs, this figure dropped to 18.2% by 1968. Then it started back up under President Nixon. It reached 22% in 1980—higher than where it had been when the War on Poverty began. Charles Murray, *Losing Ground: American Social Policy, 1950–1980* (New York: Basic Books, 1984), pp. 64–65. This poverty statistic counts only money transfers. If we count in-kind transfers (e.g., food stamps), we get a "net poverty" figure. In 1972, the net poverty figure was 6.2% of the United States population. Over the next seven years government welfare expenditures for in-kind assistance doubled. In 1979, the net poverty figure was 6.1%: no progress. *Ibid*., p. 63.

32. Shirley Scheibla, *Poverty Is Where the Money Is* (New Rochelle, New York: Arlington House, 1968).

33. The riot in south central Los Angeles in early May, 1992—a Presidential election year—lasted almost a week. The population of this section of the city is almost entirely black. Over 50 people died during the riot, killed by rioters, not the police or National Guard troops. By the end of the week, President George H. W. Bush, who was campaigning for re-election, joined with Congress to promise over $600 million in tax money to the area. (A median priced house in America was #120,000.) A national poll conducted during the riot revealed that some 61% of those polled said the nation was spending too little on improving the conditions of black Americans, up from 35% in 1988. Some 63% said the Federal government was not paying enough attention to the needs and problems of minorities, up from 34% in 1988. "Los Angeles Riots Are a Warning, Americans Fear," *New York Times* (May 11, 1992). In 1965, a riot that began in Watts, also in south central Los Angeles, led to the deaths of over 30 people. This took place at the beginning of the War on Poverty. The Federal government then spent about $2.4 trillion on welfare programs nationally, 1965–1992.

permanent welfare administration. Entitlements for the poor create employment entitlements for the Civil Service-protected bureaucrats who administer the system until the economy collapses, leaving many of the former taxpayers poor. Entitlements are the closest thing to economic entropy that a political order can legislate: a one-way street to chaos.

2. Effects on the Family

The erosion of the two-parent family in the United States has paralleled the rise of welfare entitlements. In 1970, 87% of all United States families were two-parent families. In 1980, this was down to 79%. In 1990, it was 72%. Mothers were usually the heads of these one-parent families: 12% out of 13% in 1970; 19% out of 22% in 1980; 24% out of 28% in 1990. Among black families, the erosion was most serious. The percentage of two-parent families fell from 64% (1970) to 48% (1980) to 39% (1990). Mothers were heads of household in the 96% to 97% range throughout this period.[34] Nicholas Davidson called the rise of the single-parent, mother-headed family America's greatest social catastrophe.[35]

A breakdown in morality has also paralleled the rise of the post-World War II welfare state. This can be seen most clearly in the rise of illegitimacy, which constitutes a social revolution. This revolution took only one 40-year generation. Among American teenagers, the increase has been horrendous. In 1960–64, the premarital birth rate among young teens of all races, 15 to 17, was about 33%; in 1984–89, it was over 80%. Among 18 to 19 year olds, the figure was under 17% in 1960–64; 59% in 1984–89. Illegitimate births among women age 15 to 34 were under 13% in 1960–64; they were above 28% in 1984–89.[36] This annual report ceased covering this statistic by 2010. Other statistics were available. For women of all ages, in 1980 the rate of births to unmarried women was 18%. In 1990, it was 28%. In 2000, it was 33%. In 2008, it was 40%.[37]

There were significant differences among races. Racial groups that were less likely to be on state-funded welfare programs had lower ille-

34. "Family Demographics," *American Enterprise* (March/April 1991), p. 93.

35. Nicholas Davidson, "Life Without Father," *Policy Review* (Winter 1990).

36. Amara Bachu, *Fertility of American Women: June 1990*, Current Population Reports, Population Characteristics, Series P-20, No. 454 (Washington, D.C.: Bureau of the Census, U. S. Department of Commerce, 1991), p. 7.

37. *Statistical Abstract of the United States, 2011* (Washington, D.C.: Bureau of the Census, 2011), p. 840, Table 1334.

gitimacy rates. Of all births to black women, 57% were not married at the survey date in 1990; among whites, 17%.[38] Taking the 15 to 34 age group, we find regarding first births: Blacks: 70% (1984–89) vs. 42% (1960–64); Hispanics: 37.5% (1985–89) vs. 19.2% (1960–64); Whites: 21% (1985–89) vs. 8.5% (1960–64); Asians or Pacific Islanders: 15.5% (1984–89) vs. 13.3% (1960–64), i.e., almost no change.[39] By 2000, the rate for whites was 38%. By 2007, it was 48%. For blacks, the rate in 2000 was 70%. In 2007, it was 73%. For Asian or Pacific Islanders, in 2000 it was 21%. In 2007, it was 27%.[40] These figures indicate a social revolution, 1960 to 2007.

The moral reality is much worse: these figures do not include aborted babies after 1973: about 1.5 million per year. Taking the figures back to 1950, under 2% of white babies were born illegitimate; it was almost 17% for blacks.[41] By 1990, the white illegitimacy rate was at the black rate of 1950.

This was not a uniquely American phenomenon. Similar rates of increase in crime, illegitimacy, and family breakdown took place at the same time in Western Europe. Francis Fukuyama called this the Great Disruption.[42] Comparing 1980 with 2006–8, the illegitimacy figures indicate a social revolution. France: 11% to 52%; United Kingdom: 11% to 44%; Italy: 4% to 17%; Spain: 4% to 32%; Netherlands: 4% to 41%; Ireland: 6% to 33%. Scandinavian countries did not experience this, only because they were high in 1980: from about 33% to 50%. It was worse than it looks. The rates for Muslims were much lower. So, for the old European stock, the rates were higher. Only one major nation avoided this, Japan. It went from 0.8% to 2.1%.[43]

Despite trillions of entitlement program dollars spent by the national government of the United States in the quarter of a century after the War on Poverty began, plus hundreds of billions spent by state and local governments, there has been no solution to the poverty problem of the inner cities. There is a small but seemingly permanent underclass of people who will not act to escape their poverty. Crime in these districts continues to rise, educational levels continue

38. *Fertility of American Women*, p. 3.

39. *Ibid.*, pp. 7–8.

40. *Statistical Abstract, 2011*, p. 68, Table 85.

41. Andrew Hacker, "Review of Rickie Solinger, *Wake Up Little Susie: Single Pregnancy and Race Before Roe v. Wade* (New York: Routledge, 1992)," *New York Times Book Review* (March 29, 1992).

42. Francis Fukuyama, *The Great Disruption: Human Nature and the Reconstitution of Social Order* (New York: Free Press, 1999), chaps 1–3.

43. *Statistical Abstract, 2011*, p. 840, Table 1334.

to fall, and the family continues to disintegrate within this underclass.[44] Their behavior is properly described as pathological. The decisive issue is not race.[45] The issue is morality and worldview.[46] Entitlement programs, coupled with the secular humanism of the local public school systems and the demise of the traditional churches, accelerated this pathology. The government has financed the severing of the moral links between generations by rewarding bastardy. It has subsidized evil.

K. Few Modern Applications of the Gleaning Law

How could the gleaning law apply in the modern world? As we shall see in a subsequent chapter, the jubilee land laws were fulfilled judicially by Christ's earthly ministry (Luke 4:16–21),[47] and they were historically annulled at the fall of Jerusalem in A.D. 70. The jubilee land laws had reference only to the conquered land of Canaan, which was held by Israelite families only on the basis of their ancestors' original military conquest of the land. Nevertheless, even if we did not argue that the gleaning law was lawfully annulled with the annulment of the jubilee land laws, we would still have to say that the law applies exclusively to agricultural pursuits. Therefore, in the twentieth century, the worldwide mass movement of population from the farm to the city would effectively have abolished the widespread economic relevance of this law. The law was never intended to apply to urban occupations.

1. Urban Life

Today, we find that in urban, industrialized nations, there are very few desperately poor people without jobs who live in rural communities. This is especially true in capitalistic countries. Human harvesters of the fields are mostly migrant workers or people who work part-time in the rural communities. Usually they have other jobs during the year, but they gain extra income during the harvest season. The main exceptions to this generalization are teenage children of migrants who go to school in the off-season.

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44. William Julius Wilson, *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy* (Chicago: University of Chicago Press, 1987).

45. William Julius Wilson, *The Declining Significance of Race: Blacks and Changing American Institutions*, 2nd ed. (Chicago: University of Chicago Press, 1980).

46. Edward Banfield, *The Unheavenly City: The Nature and Failure of Our Urban Crisis* (Boston: Little, Brown, 1970).

47. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 6.

The gleaning law could still be applied where hand-picking of crops is still common. This would mean primarily on farms producing vegetables and in fruit orchards (Deut. 24:20). But even here, machines are steadily replacing human labor, although this switch has been forced on employers by government-mandated minimum-wage laws, migrant labor unions, immigration laws, and other restrictions on hiring agricultural labor.

There is some question about the gleaning law's relevance to gardens. A garden in ancient Israel would probably have been planted for use by the family, not commercial farming: small plots harvested by family members, not professional harvesters.

Most of the value of modern farming in the United States is produced by grain farming. Machines harvest grain crops; workers don't. This limits the relevance of the gleaning law mainly to small farms. There are very few of these small farms left in the modern world, since they are too inefficient to compete. The cost of labor is too high in a modern economy.[48] This is why so many of the fruits and vegetables eaten in the United States are imported from Mexico.[49] In areas where the primary source of income is agriculture, this means that there are very few local residents who could participate as gleaners.

Furthermore, there is too little productivity today in grain-gleaning by hand. The price of the grain is too low. This also is a result of the enormous efficiency of mechanized grain farming. There are so few people who live close to farms today that gleaning under the best of circumstances could not provide a way out of poverty for the masses of poor individuals. Most people live in cities, not in the country. There are better economic opportunities for people in cities than in rural areas. The poor migrate into the cities to take advantage of these opportunities. This has been going on in the West since at least the eleventh century, A.D. It has accelerated since the early eighteenth century.

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48. One way to make these small truck farms pay is for the owners to invite the public in to pick the crop and pay for the privilege. This is economically feasible in areas within a few miles of a city. This arrangement would make it very difficult for the owner to police the gleaning requirement. The owner who required the paying customers to leave part of the crop would find himself with fewer paying customers.

49. In early 1991, the United States government sought to lower tariffs on imported crops from Mexico, and United States farmers protested. The idea of customer choice was not challenged directly, but the law's opponents found ways to attack this reduction of government taxation and interference with customer authority. See the anti-free trade article by United States Senator Ernest Hollings of South Carolina, "No More Uncle Sucker," *New York Times* (March 26, 1991), Op Ed page.

There is waste in commercial agriculture, as there is in every business. A 1993 United States Department of Agriculture estimate of the value of food wasted in the United States was $31 billion,[50] with the figures broken down as follows. Consumers wasted $16 billion (over 50%); harvesting loss: $5 billion; storage: $2.2 billion; transport $400 million; processing: $400 million; wholesaling and retailing: $6.2 billion.[51] The total loss was about 20% of the $150 billion worth of food produced in the United States This means that the value of food lost in the fields was about 3% of the value of agricultural output—not a high percentage. Even if all of this $5 billion in harvesting waste could have been recovered by gleaning, this would not significantly have relieved poverty in what was at the time a $6 trillion national economy.

2. Agricultural Productivity and Urbanization

We have to understand that it is the vast productivity of modern agriculture that has enabled the growth of urban areas. Without the low cost of food, not many people could afford to move to the cities. What we have seen since the early eighteenth century, beginning in Great Britain, is the steady urbanization of civilization. After 1700, the proportion of Englishmen living on farms dropped for sixty years, stabilized until 1800, and then started dropping again.[52] This was made possible because of the steady increase in the output of agricultural labor per unit of invested capital. At some point, this increase will stop, or else there will eventually be no human laborers on the farms at all—an unlikely prospect. But for almost three centuries, this increase in the marginal efficiency of invested capital in agriculture has not been halted by the law of diminishing returns: it pays land owners to buy more equipment rather than hire more workers. This increase is also the result of greater productivity in the city. The tools of agricultural production keep getting more efficient. The division of labor is greater in urban areas, and the minds of many resourceful people have been applied to the problems of agriculture.

The increased output of the cities has also increased the living standards of the rural resident. Nothing was more effective in pro-

50. With gold at about $350/oz.

51. Jonathan Eig, "Waste Not, Want Not," *Dallas Morning News* (Sept. 27, 1993).

52. N. F. R. Crafts, "Income Elasticities of Demand and the Release of Labor by Agriculture During the British Industrial Revolution: A Further Appraisal," in Joel Bokyr (ed.) *The Economics of the Industrial Revolution* (London: George Allen & Unwin, 1985), pp. 159–61.

ducing this increase in rural living standards than the coming of electricity.[53] This made possible an increase in rural productivity, but also an increase in the availability of consumer goods comparable to those enjoyed by urban residents. Yet the movement of population into the city and the suburb has continued nonetheless. Modern man has preferred to live in the city or town. All of this militates against the idea that a system of agricultural gleaning could be a major factor in reducing poverty in the modern industrial world. Any attempt to decrease rural poverty by anything except more investment (especially in education), transferrable urban production techniques, high-technology agriculture, advanced telecommunications, and better care of the soil, is doomed to failure.

Farming has never been more successful than today in producing economic value. The public wailing over the supposed "demise of agriculture" is a political ploy of an ever-shrinking number of inefficient producers. The cries of distress by "farmers" are in fact cries of outrage by less efficient farmers against successful, heavily capitalized agricultural producers. The demand for *parity* prices[54]—government-mandated price floors for agricultural products—is in fact a cry for prohibitions against voluntary exchange. These critics of free-market pricing want the Federal government to pass laws against allowing the more efficient, price-competitive farmers to get together with consumers and their agents in order to make exchanges at low monetary prices. In the United States, this cry for government interference is always made in the name of free enterprise.[55] The fact is, there has been no "crisis in agriculture" in capitalist countries: no

53. This does not mean that the United States Federal government was economically justified in having provided cheap electricity to rural areas. It means only that this was an economically beneficial subsidy, as government subsidies go, from the point of view of the recipients. Private power companies would eventually have provided this service to those farmers whose output would have justified the cost, but it would have taken decades longer. Urban taxpayers in the late 1930s and early 1940s funded most of the rural electrification projects in the United States east of the Mississippi. This subsidy did not halt the outflow of people from the farms, nor did it "save" the small family farm. It did make large corporate farms possible in regions where the lack of electrical power had kept them out. It launched today's large corporate agriculture. Cheap power made heavily capitalized farming productive in rural areas. Cheap electricity was the missing link—the missing complementary factor of production—in the triumph of mechanized agriculture. It made possible the economies of scale of large-scale agriculture. Small farmers moved to the cities. So did their children.

54. Charles Walters, Jr., *Unforgiven: The Biography of an Idea* (Kansas City, Missouri: Economics Library, 1971).

55. Walters' *Unforgiven* was co-published by the Citizens Congress for Private Enterprise.

famines in over two centuries.[56] *The so-called "crisis in agriculture" is a crisis only for the less efficient producers*. The consumers of agricultural products have been the winners. They define what constitutes a crisis in agriculture, not inefficient producers. On this basis, there has been no agricultural crisis. There has been a cornucopia.[57] It has been produced by an ever-shrinking number of agricultural laborers.[58] This has been a worldwide phenomenon. Economist D. Gale Johnson wrote in 1984: "In the past three decades a world food system has been created. This system is now capable of making food available to almost every person in the world. This was impossible just a few years ago."[59] He predicted that "the prospects for the long run are in the direction of continuing gradual declines in the real prices of the primary sources of calories for poor people."[60] The next two decades proved him correct.

There are very few human harvesters of crops today, especially grain crops. Fruit pickers do still exist, but they tend to be at the bottom of the barrel economically. There are few workers poorer than the migrant fruit and vegetable pickers. People who are willing to work for even less money than the migrant workers are very unlikely to stay in rural areas in the modern world. If gleaning were a permanent requirement for charity, this would raise the question of the legitimacy of modern commercial agriculture. After all, its efficiency has destroyed the applicability of the gleaning law. Is modern agriculture illegitimate because it is so efficient? This would be an odd way to argue: the illegitimacy of a vastly increased supply of bread—the very thing that we are instructed to pray for in the Lord's prayer. Is modern agriculture illegitimate because it has freed people from life on the farm? Is there something inherently preferable about life on the farm? If so, then it is odd that the post-resurrection world is described as a city (Rev. 21:2).

There is another problem associated with the application of the gleaning law in modern times, one which is technical in nature. Me-

56. Ireland in the 1840s was the one exception, but Ireland was not an industrial, capitalist economy in the 1840s.

57. John A. Prestbo (ed.), *This Abundant Land* (Princeton, New Jersey: Dow Jones & Co., 1975).

58. Wayne C. Rohrer and Louis H. Douglas, *The Agrarian Transition in America: Dualism and Change* (Indianapolis, Indiana: Bobbs-Merrill, 1969).

59. D. Gale Johnson, "World Food and Agriculture," in *The Resourceful Earth: A Response to Global 2000*, eds. Julian L. Simon and Herman Kahn (London: Basil Blackwell, 1984), p. 67.

60. *Ibid.*, p. 68.

chanical harvesters are so efficient in the gathering of crops that they cannot easily leave gleanings. It is more difficult for harvesting machine operators to leave the corners of the fields bare because the machines are difficult to maneuver. There is no easy way to leave part of the crop in the main portion of the field unless the driver deliberately avoids harvesting a section of the field. The gleaning law told the harvesters not to pick up fallen grain; it did not tell them to avoid harvesting the crop, except at the corners of the fields.

The modern world quite properly ignores the gleaning laws of the Old Testament. It does so in more ways than one. Some of these reasons are legitimate, but others are quite illegitimate, such as the many attempts by the welfare state to create entitlements to government handouts as a substitute for "workfare" systems analogous to gleaning. The main reason why gleaning is no longer required is that the gleaning laws were part of the jubilee laws, which are no longer in force.

L. The Modern Welfare State

The modern world, including the academic Christian world, has reversed the Old Testament criteria of wealth and poverty. There is today a latent suspicion among tenured academics that anyone who is wealthy has achieved his status by unethical means. At the same time, the poor individual is almost universally assumed to be poor by reasons other than his own incompetence or moral rebellion.[61] This means that in the modern world, the welfare state and its apologists (of all faiths) have created a system in which the subsidizing of evil is required by law. Negative civil sanctions are threatened against all taxpaying citizens who refuse to subsidize evil.

In the modern system, the whole society is taxed in order to benefit the poor. Additional centralized power is created by the state in order to impose negative sanctions against those who will not pay taxes. The rules of wealth redistribution also become centralized, and they become impersonal. The administration of these rules is exclusively bureaucratic. Unlike the Mosaic Covenant land owner, who had the right to exclude the undeserving poor from access to the fields, it is

61. A widely popular statement of this position is Ronald Sider, *Rich Christians in an Age of Hunger: A Biblical Study*, co-published by InterVarsity Press and the Paulist Press in 1977. For a reply, see David Chilton, *Productive Christians in an Age of Guilt-Manipulators: A Biblical Response to Ronald J. Sider*, 3rd ed. (Tyler, Texas: Institute for Christian Economics, 1990).

almost impossible for the modern welfare agent to exclude people from the welfare roles. If the welfare recipient gives at least surface indication that he is looking for work, he is legally entitled to the benefits. The very phrase *entitlements* is indicative of the judicial shift.

In every system there must be a hierarchy. In the Mosaic economy, the land owner was at the top of the hierarchy of the welfare redistribution system. Today, a new class of paid administrators has been created. This class, because it is paid to administer the programs, has no direct economic interest in overcoming the problem of poverty on a permanent basis. Unlike the land owner, who personally financed the gleaning operation, the salaried administrator of the welfare system does not spend his own money in order to benefit the poor. Furthermore, this bureaucratic class absorbs the bulk of the funds that are raised in order to help the poor. In this system, the poor are penalized for seeking to escape poverty through work because they are penalized economically when they get a job. They lose the tax-free income they could have received by not working. The welfare state pays people not to work. It also pays farmers not to farm. This was not true under the gleaning system, since gleaning was very hard work.

In contrast to the Old Testament's system of gleaning, the modern welfare system penalizes work and subsidizes unemployment. The poor can continue to receive money only through obedience to the new class of bureaucrats. This class of bureaucrats does not operate personally but impersonally, so the poor must meet endless criteria that are established through bureaucratic channels and in terms of the needs and preferences of those who occupy the offices. The poor find it difficult to escape the inevitable hierarchy: being poor and cared for by others. Unlike the poor person under the Old Testament's system of gleaning, which rewarded him for escaping poverty, the modern poor person grows to resent the whole system that keeps him in poverty.

The poor are well aware of this aspect of the welfare state. In the Old Testament, the gleaning system was seen by a poor person as a benefit because it was his means to support himself and possibly escape his poverty by becoming part of the agricultural work force. Today, however, there is neither the appreciation of the welfare system on the part of the poor, nor are there structured avenues of escape that are presented by the administrators of the system to the poor. It is a self-reenforcing system of permanent poverty. The system as a whole responds predictably to the system of financing that sustains it. We

are paying poor people not to work, and we are paying bureaucrats to keep themselves employed by paying these people not to work. The welfare system is not irrational; its participants respond quite rationally to the rewards and punishments that the politicians have imposed on the system. In today's welfare systems, all over the industrialized world, poverty is where the money is. The market responds with ever-growing numbers of self-declared and government-certified poor people.

M. We Are All Gleaners

Because each person is in bondage to sin, God has made gleaners of everyone. He cursed the ground, making it to bring forth thorns and thistles. This in effect put us all in the position of people who are not entitled to the best of the field. God removed the "easy pickings" from mankind as a result of mankind's rebellion. But at least he did not destroy the field (the world). He promises not to interfere directly with it until the final judgment (Matt. 13:29–30, 49).[62] We must work harder than before the curse, but God graciously grants us access to the field. Those who are not content with second-best are given an opportunity to escape their economic bondage through faith in the great Gleaner, Jesus Christ, who served God faithfully unto death, buying our way out of spiritual bondage. God observes us, to see who is efficient and who is a sluggard. He uses history as a giant gleaning operation for recruiting servants for eternity. Those who do not demonstrate faithfulness under adversity are not given access to the fields of the post-judgment world, but instead are cast out into the fire.

In a very real sense, biblical evangelism prior to the great millennial outpouring of the Holy Spirit is a form of gleaning. We reap small harvests. We get the spiritual and cultural leftovers, after the local tyrants, the humanist school system, the cults, and the drug dealers have passed through the field and have picked off "the best and the brightest." Visible successes on foreign mission fields seem minor; meanwhile, the biological reproduction of God's enemies is now becoming exponential. We seem to be falling behind. We have few reliable models to imitate. Evangelism seems futile. But, like gleaning, this condition is supposed to be temporary. Unfortunately, whole theologies are built in terms of "gleaning as a way of life."

62. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press [2000] 2012), ch. 29.

To become a gleaner may tempt a person to accept second-best as a way of life. The gleaner may not recognize or appreciate his God-given opportunity. He may not see that he is being called into the Master's field in order to demonstrate his competence in the face of adversity. He may view his plight as something he does not deserve, not recognizing that after Adam, all that any man deserves is death and eternal wrath. He does not recognize the stripped field as a garden of opportunity. He imagines that all that he can hope for is a sack of leftover grain. His time horizon is too short. His future-orientation suffers from a lack of vision, and also a lack of faith in God's grace. He forgets how few and far between faithful workers are, and how the opportunity to glean the leftover harvest is a God-given way to demonstrate his character as a man with a future precisely because he has confidence in the future.

Because the church has seen so few examples of successful evangelism, and because even the successful examples seem to fall back into paganism within a few centuries, Christians have come to adopt eschatologies that deny liberation for gleaners.[63] They see themselves and their spiritual colleagues as people who are locked in a vicious "cycle of impotence," to borrow the language of paganism's modern welfare economics.[64] They see no hope beyond the stripped field. Life only offers minimal opportunities for harvesting souls, they believe. "What we have today as gleaners is all that we or our heirs can expect in history." They lose faith in the jubilee principle, when the land of their fathers reverts to them. They lose faith in the ability of the heavenly Observer to identify and hire good workers and to place them in new positions of responsibility. So, Christians have invented eschatologies that conform to their rejection of any vision of temporal liberation: eschatologies of the stripped field. Men with battered spirits preach that nothing Christians can do as spiritual gleaners will ever fill the sacks to overflowing. They see no covenantal cause-and-effect relationship between gleaning and liberation. They preach a new gospel of God's kingdom in history: *the kingdom of perpetual leftovers*. They do not recognize that there is a purpose for our evangelical gleaning: the public identification of those bondservants who actively seek liberation and who pursue every legitimate avenue of escape from bondage, especially by hard work.

63. Gary North, "Ghetto Eschatologies," *Biblical Economics Today*, XIV (April/ May 1992).

64. The so-called "cycle of poverty."

Conclusion

The gleaning law was part of an overall system of political economy. Many of the details of this political economy were tied to the Promised Land and the sacrificial system of that land. The economic laws of Leviticus were more closely attached to the Promised Land and the sacrifices than the laws of Exodus and Deuteronomy were. *The Levitical land laws were part of a temporary system of landed familism, tribalism, and localism*.

Localism and tribalism were both basic to the application of the gleaning law in Mosaic Israel. The authority of the local land owner to chose who would glean and who would not from among various candidates—the boundary principle of inclusion and exclusion—transferred great responsibility and authority into his hand. This kind of personalized charity is no longer taken seriously by those who legislate politically grounded welfare state policies in the modern world. Such a view of charity transfers too much authority to property owners, in the eyes of the politicians, and not enough to the state and its functionaries. But it is not the principle of localism that changes in the New Testament era; it is only the landed tribalism that changes. When the kingdom of God was transferred to a new nation (Matt. 21:43), meaning the church, the Levitical land laws were abolished.

Gleaning no longer applies in the New Covenant era. The jubilee land law was annulled by Jesus through: (1) His ministry's fulfillment of the law (Luke 4:16–27); (2) the transfer of the kingdom to the church at Pentecost (Matt. 21:43; Acts 2); and (3) the destruction of Jerusalem in A.D. 70. Can we learn anything from the gleaning law? I think we can, but these lessons are essentially negative. They show us what should not be done, not what must be done, to avoid God's negative sanctions.

The first lesson that we learn from gleaning is positive, however: *all charity is based legally on the fundamental principle that God owns the earth*. "The earth is the LORD's, and the fulness thereof; the world, and they that dwell therein" (Ps. 24:1).[65] Primary ownership belongs to God. He can do what He pleases with that which He owns. He lawfully can establish requirements of property management that His legal subordinates must follow. This is the theocentric aspect of all ownership. God delegates to His subordinates the legal and economic responsibility of managing His property in His name. God is the primary owner. All other ownership is secondary and derivative.

65. Gary North, *Confidence and Dominion: An Economic Commentary on Psalms* (Dallas, Georgia: Point Five Press, 2012), ch. 5.

All charity involves the transfer of this secondary ownership (the individual's) to a third party. This leads to the second principle of biblical charity. *A third party has no legal civil claim on any asset that he does not own*.[66] The one exception is restitution: a case in which the recipient has been positively harmed by a previous action of a judicially convicted person. The third party has no comparable legal claim in a civil court if he is asking for aid. The gleaning law is therefore crucially important for what it tells us about what is *not* involved in charity: a legal claim enforceable in a civil court. The poor person had a claim before God in God's court under the Mosaic Covenant's land management system, assuming that he could demonstrate that he was part of the deserving poor. But it was the land owner who was the lawful enforcer of this claim in history, not the state. This means that the land owner had to obey God apart from civil sanctions. He had to honor God's law. God would hold him accountable in His court.

If the strongest claim that anyone in the Mosaic Covenant had on the property of another was limited to this extent, then it is not biblically legitimate for any society to legislate state-enforced wealth redistribution in the name of charity. *The Mosaic Covenant did not establish state sanctions against those people who refused to show mercy*.[67] God was the poor man's defender, not some state bureaucrat. No modern principle of charity should violate this fundamental principle. Charity should be voluntary, i.e., not subject to civil penalties for non-compliance. It should strengthen the recipient's will to seek a way out of poverty.

Third, charity should not create a permanent dependence on the part of the recipient. Fourth, charity should not subsidize evil. Fifth, it should involve hard work except in cases where the recipient is medically incapacitated. Sixth, it should not provide living standards that are higher than the poorest workers in society are able to earn.

66. In Old Covenant Israel, a second party had the right to pluck grapes and corn from a neighbor's fields, though only what he could carry in his hands (Deut. 23:24–25; Luke 6:1). North, *Inheritance and Dominion*, ch. 59; North, *Treasure and Dominion*, ch. 8. This law increased the likelihood of travel and communications, since visitors would not have to return home to eat or carry food with them everywhere. The economic benefit of being located close to a road—cheap transportation of farm commodities—was partially offset by this open access law.

67. The other comparable claim was the poor borrower's access to a non-interest-bearing loan. As the year of release approached, the prospective lender was warned by God not to harden his heart against his poor brother (Deut. 15:9–10). There is no indication that anyone could be prosecuted in a civil court for his refusal to lend on these terms.

Charity should not be a system of positive sanctions that pays people not to work. At best, it should persuade its recipients that work is preferable to charity. Charity should make an escape available.

The fundamental principle learned from the gleaning laws is this: *charity in a biblical social order must not be based on the idea that the state is a legitimate institution of salvation*. The state is not a biblically legitimate agency of social healing. It is an agency of public vengeance (Rom. 13:1–7).[68] It possesses a lawful monopoly of violence. It therefore cannot be entrusted with the authority to take the wealth of successful people in order to reward the poor. If it is allowed to do this, its agents become the primary beneficiaries of the confiscated wealth. Its political and bureaucratic agents will gain power over both the poor and the economically successful. These agents will become permanent spokesmen for the official beneficiaries of the wealth, namely, the poor. They will have no incentive to get poor people as a class permanently out of poverty. A system of legal entitlements for the poor becomes a system of legal entitlements to full-time jobs for those who administer the system. This is the antithesis of the gleaning system of the Mosaic Covenant. In that system, participants had an economic incentive to get the poor back to work: the land owners, the piece-rate harvesters, and the poor themselves.

68. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: point Five Press, [2000] 2012), ch. 11.

12

VERBAL BONDS AND ECONOMIC COORDINATION

> *Ye shall not steal, neither deal falsely, neither lie one to another. And ye shall not swear by my name falsely, neither shalt thou profane the name of thy God: I am the* Lord.
>
> LEVITICUS 19:11–12

The theocentric principle supporting this law is the protection of the name of God. This passage of Scripture is clearly an application of the third commandment. The third commandment prohibits the profaning of the name of God.[1] That is, *it places a sacred judicial boundary around the name of God*, a boundary that must not be transgressed without permission. The name of God is the protected asset. Like a brand name in advertising, the name of God is strictly licensed by its Owner.

A. False Swearing

Men are not to swear falsely by the name of God. Swearing in this case is an illegal imitation of a formal act of oath-taking. This form of the violation—swearing falsely—is an aspect of point four of the biblical covenant model: oath/sanctions.[2]

Stealing, false dealing, and lying are prohibited. So is swearing falsely by God's name. The latter is worse because it invokes God's name and authority to defend fraud. It compounds the infraction.

1. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 2, *Decalogue and Dominion* (1986), ch. 23.

2. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, texas: Institute for Christian Economics, [1987] 1992), ch. 4. Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: American Vision, 2010), ch. 4.

The passage begins with a judicial boundary that facilitates interpersonal relations: the boundary around private property.

Nevertheless, the primary focus of this text is the profanation of God's name: a *verbal boundary transgression*. This places the law under point three of the biblical covenant, just as the third commandment is under point three.[3] Additional evidence is the fact that this passage tells us not to defraud a neighbor or rob him. This is a prohibition against theft. The eighth commandment parallels the third commandment.[4] They are both aspects of point three of the biblical covenant. The theocentric basis of this law is the absolute integrity and inviolability of God's name.

This commandment's focus of concern is theft, which includes false dealings. The theocentric reference point of this law is the name of God and the prohibition against profaning that name. A profane act is an act that transgresses a sacred boundary, either judicial or geographical.[5] Therefore, in the Bible, the laws against theft are part of the general law of God that protects His name and His property from any unauthorized invasion.

This commandment has implications that extend beyond the courtroom. Men are not to lie to each other in order to further their own ends at the expense of others. Even when not under oath, their words are to be reliable; other people will plan their own activities in terms of what is said. For example, a physician is not supposed to tell his patients that they are sick when they are healthy, nor is he to tell them they are healthy when they are not. The same rule applies to economic transactions.

B. Bonds and Promises

"A man's word is his bond." This maxim is a familiar one in Western history. The word "bond" points to a legal transaction. In the Bible, a covenantal bond establishes a formal legal relationship under God. While a promise does not possess the judicial authority of a covenantal bond, since it lacks a lawfully imposed self-maledictory oath, a promise is nevertheless analogous to a covenant bond. It is a verbal contract.

In modern finance, a bond is a promise to pay. A person gives up money in the present in exchange for a specified stream of money in

3. North, *Authority and Dominion*, ch. 23.
4. *Ibid*., ch. 28.
5. Chapter 6.

the future, with the return of the principal at a stated date, which will complete the transaction, thus ending the legal relationship.

Promises are a form of inventory. They serve as substitutes for physically stored assets. Instead of accumulating assets, a producer relies on another person to deliver the goods, literally or figuratively.[6] A broken promise here is the economic equivalent of an empty storage facility that was thought to be full. Worse; someone had guaranteed that it would be full. The missing good or service creates a kind of falling domino effect: delayed production all down the line. The person who fails to deliver on time produces losses for the person who became dependent on him.

The person who promises to deliver goods or services puts his reputation on the line. The better his reputation, the more business he will generate, other things (such as price) being equal. It pays a person to gain a reputation as one who keeps his word. He tells the truth, and when other people plan their actions in terms of what he says, they are not disappointed. "LORD, who shall abide in thy tabernacle? who shall dwell in thy holy hill? He that walketh uprightly, and worketh righteousness, and speaketh the truth in his heart. He that backbiteth not with his tongue, nor doeth evil to his neighbour, nor taketh up a reproach against his neighbour. In whose eyes a vile person is contemned; but he honoureth them that fear the LORD. He that sweareth to his own hurt, and changeth not" (Ps. 15:1–4). This person lowers the cost of doing business with him. By lowering the price of anything, the seller increases the quantity demanded. This is why a person who keeps his word has increased his market value.[7]

The fraudulent person is like a thief who steals the assets stored in a warehouse, and who then swears that the warehouse is full. He posts a verbal bond. Like a bonded warehouse illegally emptied by its manager, the violation of this verbal bond is regarded by God as theft. The promise-giver owes double restitution to his victim.

In this case, the promise-giver has used God's name in his false bonding. This involves an additional infraction. The bond-giver has invoked God as his personal bonding agent. This is a major violation of God's law. "And ye shall not swear by my name falsely, neither shalt

6. In the 1980s, the advent of inexpensive computers and the spread of overnight air cargo delivery companies made possible the development of "just in time" manufacturing. Manufacturers can time the delivery of raw materials and parts so that they do not have to invest in large inventories. This has made manufacturing far more efficient.

7. The market value is an asset's present price. This price is the asset's expected stream of future income, discounted by the prevailing rate of interest.

thou profane the name of thy God: I am the LORD" (Lev. 19:12). By doing this, the false swearer has placed himself under the sanctions of God.

What is said here of individuals is equally true for nations and societies. False swearing invokes God's negative sanctions. A nation that cannot be trusted to adhere to its public commitments will gain few allies in a crisis unless those who represent the nations around it are equally corrupt and unreliable.

C. The Illegal Transfer of Private Property

What this law prohibits is the illegal transfer of private property. It prohibits a direct transfer in the form of robbery. The law says that we must not steal. There is also an indirect form of theft that is prohibited: fraud. Fraud is false dealing. It involves giving a false report to a buyer. First, fraud means a refusal to abide by one's previous word to another individual. Second, it means the deliberate camouflaging of one's word: to appear to say one thing but in fact mean something else. This is done in order to gain legal control of something that is not lawfully one's own. The other person transfers ownership voluntarily but in confusion. The classic example in the Bible is Satan's deception of Eve: the promise that she would become as God (Gen. 3:5). Third, false dealing is the outright defrauding of the individual. An example of this form of fraud is simple lying. A person says that he is going to do something, but he never intends to do it, and if all the facts were available, it could be proven that he never intended to do it. The deliberate writing of a check drawn against insufficient funds would be such an act of fraud.[8] So would posting as collateral for a loan an asset known by the holder to be worth less than what he insists it is worth. So would gaining multiple loans on the basis of one piece of collateral: fractional reserves.[9]

This indirect transfer of wealth can be achieved through false swearing. It is a false form of fraudulent dealing in which God's name is misused. It would be difficult to get away with such an act in a biblical covenant society because of the prohibition against taking God's name in vain. In a society in which the third commandment is not enforced, it is much easier for an individual to swear falsely in

8. In most states in the United States, this act constitutes a felony.

9. North, *Authority and Dominion*, ch. 49:J; North, *Honest Money: The Biblical Blueprint for Money and Banking* (Ft. Worth, Texas: Dominion Press; Nashville: Thomas Nelson Sons, 1986), ch. 8.

God's name. The obvious case in modern society in which this is done would be in a court of law. The person taking the false oath might be swearing in God's name in a formal sense, but his intention is to lie and to use that lie to gain an economic or other advantage from the victim. False swearing is mentioned in this passage, and therefore false swearing is considered to be an act of theft. It is first and foremost the public misappropriation of the name of God. This is an attempt by an individual to transfer the authority of God to himself for his own illicit purposes. He swears by the name of God in order to impress his listeners. This act can also be a formal oath that is taken in front of a court, which will accomplish the same thing.

D. The Problem of Economic Coordination

The economic issue that must be explained is the problem of the coordination of individual plans. How is this best accomplished: By state compulsion or market coordination? It is clear from both the eighth commandment and the tenth commandment that private property must be honored. Men must neither steal nor covet their neighbor's property. This means that biblical economics rests on the ideal of the legitimacy of private property. *"Christian socialism" is an oxymoron.*

In a market economy, individuals make plans about the future, and then they act in terms of these plans. They buy or sell or hold in terms of their individual plans. The question then is: How are the millions of individual decisions integrated with each other so that men can participate together in the division of labor? This is the problem of the revision of economic plans. How do people change their plans and expectations in response to the decisions of other individuals? This is the problem of feedback: information coupled with sanctions. In what form does information come to an individual that other participants in the market approve or disapprove of what he is doing or not doing? This is the problem of economic sanctions.[10]

1. Promise and Dependence

The importance of the division of labor has been emphasized in modern economics ever since Adam Smith wrote his famous first chapter on the production of pins.[11] A highly skilled individual craftsman cannot produce a great number of pins in one day, Smith ob-

10. Gary North, *Inherit the Earth: Biblical Blueprints for Economics* (Ft. Worth, Texas: Dominion Press, 1987), ch. 9.

11. Adam Smith, *The Wealth of Nations* (1776).

served. On the other hand, a small group of relatively unskilled workers can produce thousands of pins if they are given the proper capital equipment. He pointed to the division of labor as the explanation—a fundamental biblical concept (Rom. 12; I Cor. 12).[12] The division of labor allows the increase of output per unit of scarce resource input. Cooperation produces greater wealth than economic autarky can. It is the division of labor which enables us to pool our talents in order to gain much greater output together than we could possibly have achieved as individuals acting in isolation. Because increased cooperation increases individual productivity, it also increases per capita wealth. This increase—a positive sanction—is the incentive for men to cooperate economically with each other. It is a very important aspect of the preservation of society. It allows the pooling of individual talents, and it allows the pooling of capital. This capital can be of three kinds: economic, intellectual, and moral.

Cooperation requires a degree of predictability. First, it requires the predictability of *timing*. Let us consider a business that manufactures a particular product. To do so, it requires resource inputs. Because people's knowledge of markets is limited, and because it is expensive to go out and buy exactly what you want exactly when you want it, businesses carry inventories of raw materials and spare parts. These inventories compensate for men's imperfect knowledge of the future. An inventory of raw materials and spare parts enables the business to expand production without a great deal of warning. An inventory of finished products enables the business to meet the demand without increasing the price of the product. It allows the business to continue operating if there is an interruption of the delivery of materials. In other words, inventories create a production system in which there are fewer bottlenecks. Bottlenecks create "ripple effects," both in the company and in some cases in the economy as a whole. Inventories smooth production. But they must be paid for. They must be "carried." They tie up resources.

Second, the producer seeks predictability in the *pricing* of his resource inputs as a means of gaining predictability of production. If an individual agrees to sell you an item, and you then make plans in terms of the price of that item, you have become dependent on him.

12. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 9; North, *Judgment and Dominion: An Economic Commentary on First Corinthians*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 15.

Similarly, you have agreed to pay him a money price at a particular time. He has therefore become dependent on you. The free market economy produces a system of independence legally (individualism) and mutual dependence economically (coordination of plans). We are legally free to make our voluntary decisions; therefore, we are judicially independent. At the same time, because of these voluntary agreements, we become mutually interdependent in our economic activities. This is why pricing is so important. It enables us to make decisions rationally in terms of existing conditions of supply and demand.

Third, predictability of *quality* is also important. This one is more difficult to police. What level of quality is good enough at a particular price? This is difficult for the buyer or the seller to specify in a written contract. We seek ways of gaining this information inexpensively, both as buyers and sellers. The existence of brand names is important in lowering the costs of people's estimates of quality. Pricing also plays an important role. We are used to the idea that an item which costs five times more than another item is probably of higher quality. We believe that the product will not break readily, and therefore our time won't have to be spent taking the thing in to be repaired. Brand names enable us to make better predictions about the performance of both services and goods.

This is an aspect of the third point of the biblical covenant. God protects His name from profanation. In a similar way, we protect our own names from misuse. We have a property right to our names: other people are not allowed to use our names to promote their ends without our agreement. This is why the existence of brand names and the legal right to property established in a brand name are so important in a society, in order to reduce the uncertainty of the future. People can make decisions based on price and name with respect to the quality of the good or the service.

2. Contracts

Contracts are a crucial part of this system of economic interdependence. God's goal is greater cooperation among men and a reduction of coercion in economic affairs: peaceful exchange. Peace on earth is a biblical goal. Contracts enable people to specify their own performance more precisely. At least when all parties understand the terms of the contract, contracts reduce the cost of cooperation, and hence increase the quantity of cooperation demanded.

There are always inherent limitations on contracts. One limitation

is the difficulty of specifying the conditions of performance. This is why, as societies become more complex, contracts tend to grow longer and in ever-smaller print. Lawyers are the ones today who speak to each other about the nature of the conditions; the actual participants in the contract are rarely able to understand. This has created a new priesthood of lawyers. They speak to each other, and their supposed employers—clients—have to accept on faith what it is that they have just signed.

Language has limitations. Every possible condition cannot be included in a contract; hence, mutual trust is mandatory. This trust can be abused by one party. So can the contract's language. God serves as the final arbitrator in all contracts. He knows each person's intentions.

Another limit on contracts is the existence of clogged civil courts. A contract may specify exactly what the other individual is supposed to do, but if you cannot get that person into court, the contract does you very little good. This is why mutual trust is important. Nevertheless, people who trust each other should still write contracts in order to settle differences later. Even if the two parties presently agreeing to act together do not get involved in a dispute, their heirs may later get involved in a dispute. Still, we cannot expect contractualism to substitute for trust and moral responsibility. We should not expect words apart from intentions to protect us in all situations. We should not trust the letter of the law to protect us from evil intentions and the skilled misuse of language.

3. Mutual Trust

The society in which mutual trust is increasing is more likely to be a productive society. Men seek others who will deal honestly with them.[13] The cost of policing contracts is reduced as mutual trust increases. This is a form of *self-government* instead of civil government which becomes dominant. We have appeals courts in a society: both church and state. Less pressure is placed on these courts when mutual trust is increasing. This enables a society to achieve its goals with less expenditure than a society in which there is very little mutual trust.

There is another aspect of mutual trust that is important: *historical experience*. When, over a period of time, we have gained the trust of

13. "And it came to pass at that time, that Abimelech and Phichol the chief captain of his host spake unto Abraham, saying, God is with thee in all that thou doest: Now therefore swear unto me here by God that thou wilt not deal falsely with me, nor with my son, nor with my son's son: but according to the kindness that I have done unto thee, thou shalt do unto me, and to the land wherein thou hast sojourned" (Gen. 21:22–23).

another person, this becomes an asset to us and to him. He has created a mutually beneficial asset. As the record of the participants' past performance becomes available, it makes it less expensive for other individuals to enter into agreements with these individuals.[14] Therefore, a society which has a good record of performance has increased other societies' trust in doing business with it. This is an important aspect of increasing the international division of labor.

E. Trinitarian Social Theory

From an economic standpoint, the problem of the coordination of the economy is an aspect of the more general problem known as the one and the many.[15] Let us first consider the theological origins of this philosophical and organizational problem. The doctrine of the Trinity tells us that there are three persons in the Godhead, yet there is only one God. Theologically, there are two concepts of the Trinity, both of which are true. The first is the doctrine of the *ontological* Trinity. This doctrine states that there is an equality of being and glory among all the persons of the Trinity. An implication of this is that there is an equality of knowledge, meaning that each of the persons of the Trinity has exhaustive knowledge of the other two, as well as of the universe.

There is also the doctrine of the *economical* Trinity. This doctrine deals with the relationships established among the three persons of the Trinity. The relationship of God the Father to God the Son is clearly hierarchical. "And he said unto them, How is it that ye sought me? wist ye not that I must be about my Father's business?" (Luke 2:49). Nevertheless, "I and my Father are one" (John 10:30). Both statements are true. The first relates to the economical Trinity; the second to the ontological Trinity. Each person of the Trinity has separate functions in relationship to each other and to the creation. There is *voluntary coordination* of the activities of three persons of the Trinity in order to produce any effect in history. This is why we speak of one God and three persons. So perfect is the coordination process among the three persons of the Trinity that the actions of God are the actions of a single being. With this theological context in mind, let us consider two applications of the doctrine of the Trinity: social theory and economic theory.

There are three (and only three) types of social theory: collec-

14. A word that increases advertising response is "proven."

15. R. J. Rushdoony, *The One and the Many: Studies in the Philosophy of Order and Ultimacy* (Vallecito, California: Ross House, [1971] 2007).

tivism, individualism, and covenantalism.[16] These parallel the three types of philosophy: realism, nominalism, and biblical creationism. Trinitarianism proclaims the equal ultimacy of the one and the many. This is not true of either individualism or collectivism.

Individualism. Corresponding to the idea of God as three equal persons rather than as one being is a society based on philosophical individualism. Individualism emphasizes the plans and decisions—economic and political—of responsible moral agents. What individuals do and think in relationship to each other is the starting point of all individualistic or atomistic social thought. The key social idea of individualism is the concept of atomism. The individual is the irreducible social unit. Society is said to have no existence apart from the social atoms that compose it. The social whole cannot be of greater consequence than the sum of its parts. Society is seen as the result of human action but not of human design (Adam Ferguson).[17] The key political doctrine of individualism is the right of voluntary contract, both constitutional and economic. The participating many are sovereign, not the social one.

Collectivism. In contrast to individualism is collectivism. It is an extension of the idea of a purely monotheistic God. Collectivism asserts that the social whole is primary, not the individuals who compose it. The collective entity and its organizational needs are viewed as if the collective entity were a single being, a being represented judicially by specific agents. The key social idea of collectivism is that the social whole is of greater consequence than the sum of its parts. The key political doctrine of collectivism is the subordination of voluntary contracts to the decision of political representatives. The social one is sovereign, not the participating many.[18]

Covenantalism. In contrast to both individualism and collectivism is covenantalism. Covenantalism sees society as a collection of indi-

16. On the three kinds of social theory, see Gary North, *Millennialism and Social Theory* (Tyler, Texas: Institute for Christian Economics, 1990), pp. 34–37.

17. F. A. Hayek, "The Results of Human Action but not of Human Design" (1967), reprinted in Hayek, *Studies in Philosophy, Politics, and Economics* (Chicago: University of Chicago Press, 1967), ch. 6.

18. This strict monotheism is the reason why Unitarianism has become politically statist. Thomas Jefferson and John Adams did not follow the logic of their unitarian theology. The political and intellectual influence of Trinitarianism was still too great in their day. This influence began to wane after 1825. Unitarianism proclaims an undifferentiated God who is represented by men who are not totally depraved by nature. It is the religion of humanity. R. J. Rushdoony, *The Nature of the American System* (Vallecito, California: Ross House, [1965] 2001), ch. 6.

vidual judicial agents. They have judicial relationships under God. These relationships establish the corporate nature of society. Individualism emphasizes contracts. Collectivism emphasizes organic or biological unity. Covenantalism emphasizes judicial covenants that are established among individuals publicly by oath under God. The difference between covenantalism and its rivals is its emphasis on the Triune God as the initiator of the covenant. It is God who is sovereign, not the individual and not the collective society. God is the ultimate resolution of the one and the many, and therefore society can accurately reflect this resolution only when it is obedient to God and formally covenanted under God.

F. Trinitarian Economic Theory

The problem of the one and the many also manifests itself in economic theory. As in the case of social theory, there are three types of economic theory: individualist, collectivist, and covenantal. The theoretical issues are similar: explaining how the economic decisions of individuals are coordinated with each other. How are economic plans devised and revised?

Individualism. The individual decisions facing men are seen as the foundation of economic theory. This is called microeconomics. The microeconomist begins with the decisions of the individual in a world bounded by economic limits: scarcity. The individual seeks his own benefits. In his economic interaction with others, his motivation is self-interest. He wishes to achieve his ends with a minimal forfeiture of scarce economic resources. He wants to buy low and sell high.

The emphasis of individualistic economic analysis is on the productivity made possible by means of the voluntary agreement or contract. The division of labor increases the wealth of the participants if they are allowed to "truck and barter" with each other. There is no "social welfare" in such a view; there is only the welfare of each individual. Economic individualism's most consistent school of thought is the Austrian school, whose principles were first articulated by Carl Menger in 1871.[19] The Austrian School's most comprehensive theorist was Ludwig von Mises (1881–1973). Its most famous modern defender was Mises' disciple, F. A. Hayek (1899–1992).[20]

19. Carl Menger, *Principles of Economics* (Auburn, Alabama: Mises Institute, [1871] 2007).

20. Gerald P. O'Driscoll, Jr., *Economics As a Coordination Problem: The Contributions of Friedrich A. Hayek* (Kansas City, Kansas: Sheed & Ward, 1977), reprinted by the Liberty

Collectivism. In contrast to microeconomic theory is macroeconomic theory. This approach to economic theory argues that the overall operation of the aggregate economy is primary, not the decisions of individuals or firms. These macroeconomic processes have a life of their own beyond the individual decisions of acting men. Not only is the market a force separate from the individuals whose voluntary decisions shape it, the state is a force separate from individuals who provide the state with its legal sovereignty. Both the market and the state are viewed as forces with lives and laws of their own. Scientifically trained state bureaucrats are regarded as competent to give indirect orders to producers by means of monopolistic fiscal and monetary policies. Economic coordination is understood as a top-down process based on coercion by civil government: taxation, monetary manipulation, debt (fiscal policy), and regulation.

Covenantalism. This view of economics rests on a concept of God's absolute sovereignty over creation. It begins with the doctrine of the Trinity and the doctrine of creation. God has established a system of subordinate authority for individuals and institutions. Three institutions are established by covenantal oath, meaning a verbal bond invoking God's negative sanctions: church, family, and state. The individual and the family are seen as the agents of production. Both church and state must be supported by a small portion of the net productivity of profit-seeking individuals, families, and derivative associations: partnerships, corporations, etc. This places primary earthly authority into the hands of individuals, not institutions. Because of the doctrine of the final judgment, the individual is regarded as the locus of primary earthly authority. Because of the doctrine of God's absolute sovereignty—omniscience, omnipotence, and omnipresence—the results of men's decisions are understood as being under the control of God and subject to his predictable covenantal sanctions in history.

G. Economic Coordination: State or Market?

The fundamental question for humanist economists is this: Which of these two institutions possesses primary sovereignty in the process of economic coordination, the state or the free market?

The microeconomist identifies the free market as the sovereign

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Fund. Cf. Eamonn Butler, *Hayek: His Contribution to the Political and Economic Thought of Our Time* (London: Temple Smith, 1983); John Gray, *Hayek on Liberty* (London: Basil Blackwell, 1984).

agency possessing the final say over what gets produced and sold. His faith is in the self-interested individual, who knows his own desires and productive capacities better than any outside observer or enforcer can. Microeconomic analysis lodges responsibility with the individual because he has better knowledge of local (individual) conditions. The profit-seeking entrepreneur is best able to match supply and demand. The impersonal free market is seen as the only morally and politically neutral coordinator, and therefore the only institution worth trusting in man's war to overcome the boundaries imposed by scarcity. The "invisible hand" of the market[21] is not attached to any self-interested individual. The market is autonomous and therefore far more trustworthy than the state, a monopoly always dominated by special interests.

The macroeconomist insists that the state is the final court of economic appeal. Only if endowed with civil power can an elite planning corps gain access to coercively extracted information: statistics. Only through the use of statistics can central economic planners even pretend to see "the big picture." But given the repeated failure of socialist and Keynesian systems to "deliver the goods"—to match supply with demand—this faith in the state is based on a religious faith that is far more than pragmatism. The collectivist's faith rests on a humanistic version of *cosmic personalism*, with man—elitist, scientific man—as the sovereign agent. The macroeconomist's commitment to a concept of collective representation that is personal rather than impersonal.[22]

The macroeconomist's concept of sovereignty is ultimately judicial rather than pragmatic. The voters have voted for the state's representatives, and therefore these representatives supposedly possess greater legal authority than anyone in the free market. These political representatives can then hire scientific economists who somehow can see "the whole picture," as well as respond to it, apart from self-interest. The free market can often fail as a system, the collectivist says, despite the desires and plans of acting individuals. The state must rectify these failures. In short, the market process is seen as unable to harmonize the conflicting plans of acting men. The market's process of coordination is imperfect, according to the macroeconomist. The underlying premise of the macroeconomist is that the state—i.e.,

21. Smith, *Wealth of Nations*, p. 423.

22. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, [1982] 2012), Appendix A: "From Cosmic Personalism to Humanistic Sovereignty."

politicians and tenured bureaucrats—must intervene to take coercive actions that will offset the evils and inefficiencies of contractualism. Without state intervention, the collectivist assures us, the free market economy will eventually collapse. Marxism and socialism emphasize macroeconomics. So does Keynesianism.

What the macroeconomist says is that officials of the state can see "the big picture" better than individual market participants can. These state officials supposedly represent the true needs of the political majority better than the market does. These representatives are supposedly capable of rising above their own self-interest. They are also capable of designing and implementing positive and negative sanctions that can motivate producers to meet the true needs of a majority of the population—"true needs" being defined by politicians and bureaucrats. There is little awareness of the self-interest of the state's employees in pursuing their goals through the application of state power.[23]

H. Economic Coordination: Covenantal

The individualist says that the best economy is the result of human action but not of human design. The collectivist says that any economy that is the exclusive result of human action but not of human design is an imperfect economy. It needs the coercive power of the state to right wrongs, correct imbalances, and achieve high employment and sustained economic growth without inflation.

The covenantalist insists that the economy is the result of God's absolute sovereignty through delegated authority. The economy is designed by God. When the human actions of large numbers of the members of society conform to His law, the general economic results will be good, conforming to God's promises (Lev. 26:4–5, 9–10). When men's actions are rebellious, the economic results will be bad (Lev. 25:20, 22, 26). The collective results are determined by God's responses to widespread covenantal faithfulness or rebellion.

This means that there is an all-seeing, omnipotent agent who oversees the "big picture." He does not require or even permit men to

23. On personal self-interest in the decisions of politicians and bureaucrats, see the literature produced by the "public choice" school of economists, most notably James Buchanan and Gordon Tullock (who is not a degree-holding economist). Buchanan and Tullock, *The Calculus of Consent* (Ann Arbor: University of Michigan Press, 1962); Buchanan, *The Limits of Liberty* (Chicago: University of Chicago Press, 1975). Buchanan won the Nobel Prize in economics in 1986; Tullock, never haven taken a course in economics, did not.

usurp His role as overseer. He delegates to individuals the responsibility of planning for the future. He delegates to individuals the authority to bring evil-doers to the attention of civil magistrates. He relies on the individual's self-interest in both cases: the entrepreneur's quest for profit[24] and the victim's quest for restitution.[25]

This system rests on the concept of the honest word: the producer's promise to buy, the seller's promise to sell, and the oath-bound witness' promise to tell the truth to the court. It also rests on the idea of God's predictable corporate sanctions in history: economic, military, and biological-medical.[26] God takes care of the "big picture"; He delegates to individuals and voluntary associations the responsibility of administering the "local picture." This is the biblical doctrine of responsible (hierarchical) stewardship, which is always accompanied by the covenantal doctrines of law, judgment, and inheritance. This worldview is utterly foreign to the economists, whether individualistic or collectivist. It is far too cosmically personal for them.

I. Economic Representation

This debate is inescapably a debate over the nature of legitimate representation. The humanistic microeconomist says that the market process is generally the most reliable representative of the people—an impersonal force that is the product of millions of individual economic decisions. The Keynesian macroeconomist says that the state is needed to complement the market by offsetting the market process in selected cases. The state is supposedly *a personal, caring* force that protects the weak while simultaneously increasing the wealth of the vast majority of people.[27] Both systems recognize the inescapability of economic representation.

So does covenantal economics. The representative of the people is God Himself: Jesus Christ, the Incarnate God. This cosmic agent of both God and man has announced His laws in the Bible. He has also designated earthly representatives of His three covenantal law courts:

24. Frank H. Knight, *Risk, Uncertainty and Profit* (Boston: Houghton Mifflin, 1921); Israel M. Kirzner, *Competition and Entrepreneurship* (Chicago: University of Chicago Press, 1973).

25. North, *Authority and Dominion*, ch. 33. See also Gary North, *Victim's Rights: The Biblical View of Civil Justice* (Tyler, Texas: Institute for Christian Economics, 1990).

26. In Old Covenant Israel, there was another sanctioning agency: the land itself, i.e., the environment. See Chapter 10.

27. This assertion regarding socialism is no longer taken seriously except by college professors in the West. The Keynesian version—meaning its rhetoric of state aid and legitimate representation—is still believed by a majority of voters.

church, family, and state. The covenantal alternative to both individualism and collectivism is a system of economics that begins with the stipulations of biblical law. There was no covenantal "school of economic thought" in the twentieth century. The triumph of secular humanism in economics is total. It has been ever since the seventeenth century. In fact, the very origins of the modern science of economics was grounded in a self-conscious attempt to replace all theological and even moral opinion by the categories of neutral reason.[28]

Covenantal economics asserts the existence of an original natural harmony of economic interests, but only in the garden of Eden. Ever since the fall of man, there has not been a harmony of interests. *There can be no permanent harmony of interests between covenant-breakers and covenant-keepers*. There can, however, be temporary cooperation in history based on mutual self-interest. The tares are not uprooted in history; neither is the wheat (Matt. 13:18–23, 36–43).[29] Their cooperation is based either on the willingness of the wheat to abide by the stipulations that are established by the tares or on the willingness of the tares to abide by the stipulations established by the wheat: biblical law. It cannot be based on neutral civil law, since there is no neutral law. There is no neutrality. There is only covenant-breaking and covenant-keeping.

Conclusion

The prohibition against theft and false dealing is here linked to the prohibition against profaning God's name. This points to the parallel between the eighth commandment against theft and the third commandment against taking God's name in vain. The issue in the third commandment is misusing God's name. The issue here is lying. Swearing by God's holy name is prohibited; therefore, so is false dealing and lying.

Men must not deal falsely with each other. In economics, such a law increases the possibilities for cooperation. The division of labor and the specialization of production make possible greater output per unit of resource input. Honest dealing enables men to increase their productivity and their wealth.

"A man's word is his bond." This phrase points to the covenantal

28. William Letwin, *The Origins of Scientific Economics* (Cambridge, Massachusetts: MIT Press, 1963).

29. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 29.

grounding of society: a legal bond between God and man, and among God and men, based on a self-maledictory oath. A contract is analogous to a covenant. Men may not use God's name in vain, so they may not swear by God in a contract. But there is an element of self-malediction: the contracting parties agree to submit themselves to an arbitrator or a civil magistrate when signing the contract.

Because of promises, men can cooperate with each other over time. The future becomes less uncertain because of the existence of promises. Thus, if we wish to overcome the economic uncertainties of life, we can enter into agreements with others. But each party to the agreement must deal honestly with the others; otherwise, men's plans regarding the future are undermined by the non-performance of others. The coordination of men's plans then becomes disrupted.

The West has generally been faithful to this law. The result has been the proliferation of contracts, culminating in the highly organized securities markets. These markets have led to a vast increase of wealth in the West. Men have been able to pool their assets, making possible the capitalization of present goods. Capitalization involves placing a present price on an expected future stream of income. If all men were liars all of the time, such capital formation would be impossible.

Because God has delegated authority and responsibility to men, they can cooperate. His system of hierarchical authority is a bottom-up system: men are free to do anything not specifically prohibited. Court systems settle disputes between individuals. This is the structural foundation of a free market economy: local responsibility, voluntary cooperation, and hierarchical judgments after the fact. This is the opposite of bureaucracy: a top-down system of controls in which a central planning agency announces goals and standards, modifies them repeatedly, and then evaluates the performance of subordinates in terms of the previous announcements. If all men were liars most of the time, bureaucracy is the system mankind would be stuck with. It is Satan's system, for he deals with liars. Therefore, when society is marked by widespread lying and fraud, it will either move toward autarky or toward bureaucratic centralization. Productivity suffers.

13

PROTECTING THE WEAKEST PARTY

> *Thou shalt not defraud thy neighbour, neither rob him: the wages of him that is hired shall not abide with thee all night until the morning. Thou shalt not curse the deaf, nor put a stumblingblock before the blind, but shalt fear thy God: I am the* LORD.
>
> LEVITICUS 19:13–14

The theocentric meaning of this passage is two-fold. First, God pays us what He has agreed to pay us, and He pays us on time; therefore, so should His people. Second, God protects those who cannot protect themselves; therefore, so should His people. This has to do with sanctions: point four of the biblical covenant model.[1]

This is a single law, yet it has two parts. The two parts condemn three crimes: fraud, robbery, and the withholding of wages. The two parts are judicially and economically linked. The links between them are two-fold: (1) God's desire to protect the weakest members of society; (2) God's establishment of rules to overcome the inherent limits on men's knowledge, especially limits on judges' knowledge.

This raises an important judicial question. If we are to defend the deaf and the blind because they cannot defend themselves, isn't this a violation of the fundamental judicial principle of Leviticus 19:15, namely, that God does not respect persons? On the contrary, this case law affirms that the deaf and the blind are entitled to the same protection from cursing and tripping that anyone is. But because they cannot bring a lawsuit on their own behalf, a righteous person must do it for them. This upholds the universal authority of God's law.

1. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 4; Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: American Vision, 2010), ch. 4.

Part I: Withholding Wages

The previous section of Leviticus 19 deals with theft through fraud: the deliberately deceptive use of words (vv. 11–12).[2] The first half of verse 13 repeats this warning. The second half adds another form of fraudulent wealth transfer: withholding a worker's wages overnight. This act is specified as fraud, and it is also specified as robbery. The question is: Why? If the worker agrees in advance to wait longer than a day for his pay, why should the law of God prohibit the arrangement? Or does it?

It is always helpful in understanding a case law if we can first identify the theocentric principle that undergirds it. Verse 13 deals with paying a debt. The employer-employee relationship reflects God's relationship to man. God provides us with an arena: life and capital. Similarly, the employer supplies an employee with capital that makes the employee more productive. Man is dependent on God. Similarly, the laborer has worked for a full day; the employer is required to pay to him at the end of the work day. The context is clear: *rapid payment for services received*. God employs us as His stewards. He gives us the tools that we need to serve Him and thereby serve ourselves. He always pays us on time. So should the employer.

The employer who withholds wages from his employees is making a symbolic statement about God's relationship to man: God supposedly delays paying man what is rightfully owed to him. This symbolism is incorrect. It testifies falsely about God's character. This case law makes it plain that the employer owes payment before the sun goes down, a reference back to the creation: the division of day and night (Gen. 1:3–5; cf. Matt. 20:8).

God delays settling all accounts with mankind until the end of man's week in history, the final Day of the Lord.[3] Man is *definitively* in debt to God, for God did not slay Adam on the day of transgression. Man is *progressively* in debt to God, for God has given to man far more than man has given God.

God's refusal to settle accounts with men in this life is testimony of His grace to each man—an undeserved extension of credit—and also of a final judgment to come. Man is *finally* in debt to God. God graciously gives gifts to all men until the day of judgment: common

2. Chapter 12.

3. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five press, [1982] 2012), ch. 6.

grace to all and special grace to His elect.[4] So, by implication, it is legitimate for an employer to pay his workers in advance, for this testifies to the true debt relationship of man to God. Man, the employee, owes much to God, the employer, who has advanced wages to man so that man may work out his salvation or damnation in fear and trembling. *This grace on God's part places mankind increasingly in God's debt*—a debt that is growing ever larger as time extends and God's common grace compounds. If men do not repent, there will be hell to pay, i.e., there will be God to pay in the ultimate debtor's prison (Matt. 18:34).[5]

A. A Position of Weakness

The wage earner in verse 13 is in a position of comparative weakness. He is assumed by God to be in a weaker economic position than the individual who is paying his wages. This employer-employee relationship reflects God's supremacy as the sovereign employer and man's subordination as a dependent employee.

If the wage earner is not paid immediately, then he is being asked by the employer to extend credit to the employer. The employer gains a benefit—the value of the labor services performed—without having to pay for this benefit at the end of the work day. The Bible allows this extension of such credit during daylight hours, but not overnight.[6] This law teaches that the weaker party should not be forced as part of his terms of employment to extend credit to the stronger party. God acknowledges that there are differences in bargaining power and bargaining skills, and He intervenes here to protect the weaker party. This is one of the rare cases in Scripture where God does prohibit a voluntary economic contract.

What if the worker says that he is willing to wait for his pay if he is given an extra payment at the end of the period to compensate him for the time value of his money (i.e., interest)? This would be an unusual transaction. The extra money earned from two weeks of interest would be minimal in comparison to the amount of the wage. In any case, to abide by the terms of this law, such a voluntary agreement would have to be *a legal transaction publicly separate from wage earning*

4. Gary North, *Dominion and Common Grace: The Biblical Basis of Progress* (Tyler, Texas: Institute for Christian Economics, 1987).

5. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 37.

6. By implication, the night laborer is under the same protection: he must be paid before the sun rises. The idea is that he must be paid by the end of the work day.

as such. There would have to be a public record of its conditions. It would constitute an investment by the worker. But the worker would have to pay his tithe and taxes on this money before he could legally lend it to the employer. There is no biblical law that prohibits a poor man from earning interest on his money. Usury is defined as the taking of interest from a poor man who has requested a zero-interest charitable loan.[7] Usury is not the same as an interest-paying loan to a rich man from a poor man who wants to make some extra money.

The law here specifies that an employer who hires an individual to work for a period of time has to have the money available to pay that individual on a daily basis at the end of each work day. This is the employer's standard requirement. There would be no confusion about this in a Christian covenanted society. There is no doubt that in the modern world, such an arrangement is not economically efficient. Checks must be written, checks must be delivered to individuals, account books must be kept, and so forth. If this had to be done daily, it would add to the expense of running a firm.[8] The larger the firm, the more difficult such an arrangement would be. Nevertheless, the employer is required by God to abide by this law. The question is: Can he lawfully substitute a more convenient payment scheme and still meet the requirements of this law?

B. Debt and Credit: Inescapable Concepts

If the employer decides that it is too much trouble to pay each worker at the end of each work day, he must advance the funds for the period of employment prior to the next payday. Thus, if the average period of employment between paydays is two weeks, the employer must bear the risk of paying an individual for work not yet received. The employer must extend credit to the worker. This is another way of saying that *the worker must assume a debt obligation*: two weeks of agreed-upon labor services.

Payments for a stream of continuous services cannot be simultaneous, although this limitation will change when the use of electronic

7. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012) Part 3, *Tools of Dominion* (1990), ch. 49.

8. In the final stages of the German inflation in 1923, workers were sometimes paid cash in the morning. Wives would accompany them to work, take the cash, and rush to spend it on anything tangible before it depreciated during the day. This inflation devastated workers and employers alike. On the daily payment of wages in the second half of 1923, see Adam Fergusson, *When Money Dies: The Nightmare of the Weimar Collapse* (London: William Kimber, 1975), pp. 149, 191.

cash becomes widespread.[9] Therefore, one of the two parties in this transaction must go into debt in this system, while the other must extend credit. *There is no escape from debt and credit without the technology of continuous payments*. What this law authorizes is an extension of credit by the worker to the employer for a maximum of one work day. At the end of the work day, the account must be settled; credit is no longer extended by the worker, so he receives his day's wage.

What if the transaction is different? What if the worker is paid in advance for a week or two of labor? He then necessarily becomes a debtor to the employer. He is required to deliver the work that he has been paid to perform. This places the worker in a debt position, but it is not a long-term debt. It is not considered a form of slavery, but there is no doubt that the worker has voluntarily accepted payment in advance, and this creates an obligation on his part. This debt position is limited, however. The law's presumption is that the employer is not going to pay a person in advance for months of work except in very rare circumstances.[10]

It is clear that debt and credit are inevitable in an economy that is based on the division of labor. One party must extend credit to the other for some period of time. The other party therefore must become a debtor. The period of the debt in a labor contract may be brief, but it does exist. The inescapable questions are: (1) who will be the creditor, (2) who will be the debtor, and (3) for how long a period of time? *The idea of a debt-free economy is utterly utopian*. It is not economically possible to establish such an economy unless payments are simultaneous, moment by moment.[11] Such a payment system is too expensive for any organization to establish today. It would destroy the labor market if it were required by law.

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9. It is technically possible to deposit money electronically into a worker's account on a moment-by-moment basis, just as it is possible for him to spend it on the same basis, but the cost of doing so is too high to make it feasible. This cost constraint will probably change in the future as computer technology and the cost of using computer networks both decrease. Kevin Kelly, "Cypherpunks, E-money, and the Techniques of Disconnection," *Whole Earth Review* (Summer 1993).

10. One of these circumstances is found in the book publishing industry. An individual is sometimes paid in advance to write a book manuscript. This is one of the highest-risk transactions in the business world. The best way to keep an author from finishing a manuscript is to pay him in advance. As a publisher, I learned this lesson after much experience.

11. I am reminded of the scene in the film *America, America*, where the suspicious Greek buys passage on a ship to the United States. He holds out his money to the ticket salesman behind the counter, but he refuses to release his grip until the salesman places the ticket in his other hand. They let go simultaneously.

The Bible teaches that we are not to become indebted to others: "Owe no man any thing, but to love one another: for he that loveth another hath fulfilled the law" (Rom. 13:8).[12] This must not be interpreted in an absolutist fashion. We know this because every person is in debt to God, and also to the perfect man, Jesus Christ, as a result of Christ's atoning work at Calvary.[13] This rule of debt-free living should be interpreted in a non-utopian sense. It means that *we are to avoid debt contracts that threaten our continuing legal status as free men*. It does not mean that we are to become hermits who separate ourselves from a division-of-labor economy. (It surely does not mean that we are required to become household slaves.)[14] Free men in Mosaic Israel were those who had not been sold into slavery to repay a debt. Free men had an inheritance in the land. This means that large debts today should be collateralized, e.g., a mortgage. A man can lose his home if he defaults on the mortgage, but he does not lose his freedom. The creditor reclaims the collateral rather than placing the debtor in bondage or selling him into bondage.

The restraining factor against the extension of too much credit by the stronger party is the employer's fear that the worker will either quit before his term of service ends or else not produce competent work. It is too expensive for the employer to sue the average worker for damages; court expenses plus his own time in court exceed the money owed.[15] The economic judgment of the employer is the restraining factor. He suspects that he will not be repaid if he extends too much credit. Nevertheless, there is no biblical law that says that

12. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 12.

13. This debt always involves common grace; sometimes it also involves special grace. North, *Dominion and Common Grace, op. cit.*

14. A Christian perfectionist, as a result of reading tracts against fractional reserve banking, once offered me the opportunity to hire him as a permanent indentured servant if I would agree to feed, clothe, and house him on a zero-cash basis. He recognized that Federal Reserve Notes and checking accounts are both money and debt instruments, and he wanted to be totally separated from any contact with either cash or checks. He felt too guilty to continue as a free man. He was willing to become a household slave to someone who was not equally concerned morally about using Federal Reserve Notes or checking accounts, and who would pay him in kind (i.e., goods). In short, he was willing to subordinate himself for life to someone whom he perceived as not being equally moral, so that he himself could live in technical moral purity. He wanted a protective boundary around him, and he was willing to give up his freedom to attain this. But this brought him into conflict with Paul's injunction to indentured servants to take freedom whenever it is offered (I Cor. 7:21).

15. God does sue workers who default on His advance payments. Some are sued in history; all are sued on the day of judgment. Court costs are irrelevant to God.

the employer must not extend credit in the form of wages paid in advance. He has to make the decision whether it is worth the risk to do this, given the organizational difficulties of making payments at the end of every work day.

What this text does specify is that the *worker* must not be asked to work for a week or two in order to receive his wage. There is always a risk of default on the part of the debtor, whether he is the employer or the worker. This law specifies that the risk of default for this form of debt beyond one work day must be born by the employer, not by the worker.

The employer must not become a thief by withholding anyone's wages. By forcing the employer to make restitution to his employed workers who had their wages withheld, the law reduces the amount of oppression of those unseen by the judges: future workers who are too weak even to compete for the delayed-payment job.

C. Worker vs. Worker

There are some workers who might be willing to work for a period longer than a day before receiving their pay. In a modern capitalist economy, this procedure is accepted by all concerned, since it is the policy of most employers to offer severance pay to dismissed workers.[16] The worker who plans to quit usually informs his employer of the fact that he will soon be leaving. The employer knows that the worker may become somewhat distracted in the final days of employment. The employer may decide to allow the worker to take his paid vacation at the end of his term of employment. So, the modern worker is paid by the employer for services not rendered when he leaves the job, not at the beginning of the term of employment. At the beginning of the contractual relationship, the modern worker renders services to the employer for which he is not paid at the end of the work day. This practice is what the Bible prohibits.

In a poor nation, which the whole world was until the nineteenth century, an offer to accept delayed payment would have given these capital-owning workers a competitive advantage over destitute workers who needed payment immediately. This law establishes that com-

16. There are also state-run compulsory programs of workers' compensation; any worker who is fired can receive payments from the state. Employers are required to pay taxes into these insurance funds. This is a morally corrupt system that penalizes employers who want to fire inefficient workers in order to improve customer service and/or increase profits that can be used to reward its investors. It also subsidizes unemployed workers to stay out of work until the benefits run out.

petition among workers must not involve the employer's acceptance of such an offer by any worker. The biblical standard of payment is specified: payment at the end of the day. There may be payment in advance but not delayed payment, unless there is an interest-paying savings plan involved, as mentioned earlier.

Where this law is enforced, destitute workers in the community are not replaced in the labor force by less destitute workers who can afford to forego immediate payment. All workers are to be allowed to compete for jobs, irrespective of any worker's possession of reserves sufficient to tide him over until the next payday. So, one idea behind this law is to make job opportunities available to the destitute workers in the community. Everyone who is physically able to work is to be allowed to compete for a job on a basis independent of his asset reserves. *The destitute man's poverty is not to become the basis of his exclusion from the labor market*. His competitors are not allowed to use their ability to extend credit to an employer as a way to offset his only assets: his willingness and ability to work.

It should be clear that this law is far more applicable to a poor society than to a modern capitalist one. Very few people in a modern capitalist society are so poor that they cannot wait for a paycheck in two weeks. But the principle should still be honored. It is unfair for an employer to force workers to extend him credit as the price of getting that first job assignment. To do so is to offer the robber's option: "Your money or the job!"

This law prohibits robbery: by the employer and also by the employer's accomplice, i.e., the worker who can afford to accept a delayed-payment contract, thereby excluding the poorest workers from the labor market.

D. A Case of Theft and Indirect, Non-Criminal Oppression

Whenever we analyze a voluntary contract from the point of view of the ethical question of "oppressor and oppressed," we need to ask the economic question: *Who wins and who loses*? Few moral analysts have had training in economic analysis. This is why they often miss the point. They incorrectly identify the oppressors and the oppressed.

This law prohibits two parties from profiting from delayed payment: the employer and the worker who possesses sufficient assets to survive a delay in payment. Why does the employer delay payment? One reason is that he seeks to avoid risk. He wants to be able to fire the worker without losing the value of the labor that the worker still

owes him because of the money that he paid the worker in advance. God grants the employer the legal right to avoid this risk of default, but only if he pays wages daily. The employer may lawfully assess the worker's net productivity, day by day. If the worker is producing unacceptably low output, the employer does not have to hire him the next day. The worker's contract is good for only one day or less, depending on what he agreed to in advance. But when the employer seeks to retain the worker for a longer period than one work day, he must pay the worker in advance. This is what God's law teaches.

1. The Weaker Party

The worker needs protection. An employer might hire him for a period and then dismiss him without pay. Jacob's complaint against Laban was that Laban had changed his wages repeatedly, meaning retroactively (Gen. 31:7). To protect the worker from this sort of robbery, the Bible requires the employer to bear the risk of longer-term default. He bears the risk that the worker may turn out to be inefficient and will have to be fired before he has fulfilled his contract. The worker may even cheat the employer by walking off the job before his term of employment is over. That is the employer's problem. He can minimize this risk by paying workers at the end of each day. In doing so, he does not allow them to become indebted to him. If he chooses to have more infrequent pay periods, then he must bear the risk of paying people in advance who turn out to be inefficient or corrupt workers.

There are workers who are willing and able to bear the risk that they will be cheated by an employer. They will accept delayed wage payments. If there were not such workers, this law would not be necessary. The employer could not rationally expect to be able to pass on this risk of hiring people to the people being hired unless he believed that there were workers who were willing to accept a delayed payment work contract. We know that such workers exist by the millions today. They have always existed.

This case law prohibits such an arrangement, whether initiated by an employer or a worker. The law specifies in advance exactly what each worker should expect: payment at the end of the work day. *This law discriminates against all those workers who are willing and able to compete against other workers by accepting delayed wages*. It is not simply a law against the robbery of destitute workers by employers; it is also a law against the indirect, non-criminal oppression of destitute workers by other workers.

2. The Weakest Party

It is not immediately apparent that this law deals with the robbery of the poor by the somewhat less poor. This law seems to have only the employer in mind as the agent of theft. But the employer cannot act alone in this act of theft. He needs accomplices, even if they are unaware of their economic status as accomplices. An employer who wants to discriminate against destitute workers in this way cannot do so without the voluntary cooperation of other workers. He cannot hire people to work without daily wage payments unless some workers are willing to work on these terms.

The text identifies this practice as illegal, but it is not merely the robbery of those workers who voluntarily agree to accept the terms of the contract; it is also the oppression of those workers who cannot afford to offer their labor services on these terms. It is above all the oppression of those who are *excluded* from the employer's work force, not those who are included. But it requires some knowledge of basic economics to discover this fact. This law's protection of the destitute worker's ability to bid for jobs is implicit in the text, not explicit.

On what legal basis does this law apply to the free market? Why should a voluntary contract—delayed payment—be prohibited by civil law? What makes the practice of delaying payment judicially unique, and therefore legitimately subject to interference by the civil government?

3. The Priestly Factor

It is the vulnerability of the weakest seller of labor that makes this law necessary. God imposes this law because of what I call the priestly factor in free market pricing. This factor is seldom if ever discussed by free market economists. When human life is at stake—beyond the modern economic principle of marginalism—unrestricted free market competition is in some instances not morally valid. All real-world societies recognize this fact, but free market economists rarely do, since they are committed to a hypothetically value-free (ethically neutral) analysis.

Here is an example of priestly pricing: a physician who bargains sharply with a seriously injured man at the scene of an accident. He cannot lawfully charge "all the traffic will bear" under such conditions. He is not allowed to charge significantly more than what is customary for treating that kind of injury in cases where the patient can be taken to any of several emergency treatment facilities. If he

does drastically overcharge the victim, a civil court will not enforce the contract. The medical profession has ethical rules against such uninhibited pricing practices. Most people, unlike trained economists, have at least a vague understanding that human life, like eternal salvation, is not to be sold to a dying man on the basis of the free market's familiar auction principle of "high bid wins" unless there is sufficient time for the injured person to seek a second opinion and negotiate a second price quote.[17]

The law against delaying the payment of wages is an application of the ethics of priestly pricing. A destitute worker is not to be excluded from any labor market by an employer's policy of delaying payment. Delayed payment is a policy of excluding workers.

Why would an employer want to exclude workers from bidding for a job, i.e., lowering his labor costs? Normally, he would not want to exclude them, but it takes considerable familiarity with economics to understand why this policy discriminates against destitute workers. This law prohibits such a practice. God expects men to obey His law even when they do not understand all of its ramifications. Obedience is primary, not intellectual understanding. Men are to show good faith to God by obeying God's law as best they can, so that He will reward them. One of these rewards is greater understanding, thereby enabling men to obey God even better.

E. Competition: Discrimination = Exclusion

This law does not prohibit other forms of competition among workers. It prohibits only this one, which reflects the character of God in his gracious dealings with men in history. There is no law in the Bible against one worker's willingness and ability to offer to work for less per day or less per hour than another worker presently does. Any

17. Priestly pricing is based on ability to pay, e.g., the tithe. Economists call this practice price discrimination: one monetary price charged to members of one group; another price charged to members of a different group. The economist's standard explanation for this phenomenon is that there are government-imposed barriers to entry, e.g., licensing. The classic presentation of this view is Reuben A. Kessel, "Price Discrimination in Medicine," *Journal of Law and Economics*, I (Oct. 1958). I wrote to Kessel in the mid-1970s and suggested the priestly role of physicians as another factor in price discrimination. He wrote back politely and said this had never occurred to him. He did not say that he thought I had discovered anything significant.

A legitimate question is this one: Why do civil governments create such barriers to entry? The political self-interest of the legislators is not the only possible explanation. Legislators and judges seem to recognize the priestly role of physicians. Some kinds of voluntary but life-and-death contracts are not enforceable in the courts, and should not be.

offer to serve another person on terms that are better for him than the terms presently being offered is an offer to *discriminate*: an act of *exclusion*. The offer discriminates against the person who has previously benefitted from the arrangement under the existing terms. The right[18] to make a better offer is inherent in the biblical requirement that we become more profitable servants. This right is basic to human freedom. It is also basic to economic growth and advancement.

1. The Economics of Persuasion

We never know all of the available alternatives in life. We learn about better ways of achieving our goals through better offers that are made to us. We frequently need to be persuaded to do the wise thing. Wisdom is not automatic. Neither is accurate knowledge automatically acted upon.[19] This is an epistemological application of Paul's ethical principle that knowing the good is not the same as doing it: "For the good that I would I do not: but the evil which I would not, that I do" (Rom. 7:19). This is why advertising must be persuasive; in fact, persuasiveness is more important for successful advertising than conveying technically accurate information.[20] People seek persuasion. They are willing to pay for it.

There is market competition for accurate information and for effective persuasion (i.e., motivation). Neither information nor persuasion is a free good. Both parties to a voluntary transaction are buyers of both information and persuasion. While we do not normally think of persuasion as something that buyers purchase, it must be purchased. We reward those who provide it by buying whatever it is they are selling. Advertisers pay for specialized courses on how to become more persuasive.[21] Customers act when they are persuaded to act. This indicates that they want to be persuaded to take action. Their

18. By "right," I mean "immunity from legal challenge."

19. Israel M. Kirzner, *Perception, Opportunity, and Profit: Studies in the Theory of Entrepreneurship* (Chicago: University of Chicago Press, 1979), ch. 9.

20. Israel M. Kirzner, *Competition and Entrepreneurship* (Chicago: University of Chicago Press, 1973), pp. 159–63.

21. The components of a direct-marketing advertisement are the same as the components of biblical hermeneutics and the medieval trivium: grammar, logic, and rhetoric. The ad must have a promise (grammar), proof (logic), and persuasion (rhetoric). In 1992, I presented this thesis before two conferences on direct-marketing techniques, and the professionals in attendance told me that they agree with my analysis. Biblical hermeneutics employs the same methodology: grammatico-historical (grammar), theology (logic), and symbol (rhetoric). I presented this thesis at the Colleyville Presbyterian Church, Colleyville, Texas, on June 29, 1992. On the medieval trivium, see Dorothy Sayers, "The Lost Tools of Learning" (1947)

spending patterns reflect this desire on their part. Advertisers therefore respond accordingly: they adopt techniques of persuasion—what scholars have for millennia called *rhetoric*. Persuasion is not a free good. It must be paid for by those consumers who want it.

The structure of competition for information and persuasion is no different from any other form of market competition: *buyers vs. buyers* and *sellers vs. sellers*. A person who thinks he can sell me an alternative approach to solving my problem comes to me and says, in effect: "Include me in your production process. Exclude someone else. I have discovered a better way." *The offer to include him is inevitably an offer to exclude his competitors*. There can be no possibility of inclusion inside a boundary without the possibility of exclusion; otherwise, there would be no boundary.

2. Competition Without Oppression

This should alert us to a biblical fact of economic life: *economic oppression* is in fact a form of *discrimination*. Economic oppression can also be used as a means of *competition*. Most forms of discrimination are morally valid and legal.[22] Therefore, so are most forms of competition.

This case is an exception. Why does God prohibit this form of competition among workers? I think it must be the *all-or-nothing* aspect of this form of competition. An excluded worker may be too destitute to survive easily without pay. He is at the bottom of the barrel financially. He might be able to work for a bit less money per day, but he cannot afford to work for nothing for several days or weeks. He is in a desperate situation, so God intervenes and gives him what he needs to compete: *time*. His skills are not to be removed permanently from the marketplace just because he is too destitute to accept a job that delays payment for work completed beyond one work day.

The Bible correctly assumes that the employer is in a stronger bargaining position than the destitute employee in the community. God's law therefore places limits on the time that the employer can withhold the wages of the employee. It says specifically that withholding wages beyond the end of the work day constitutes oppression. God establishes this formal standard, and Christians should acknowledge its existence and obey it. *There are biblical judicial limits on voluntarism*. This fact does not constitute a legitimizing of an open-ended social-

22. Economist Walter Williams said that when he married his wife, he discriminated against all other single women. He was not be so naïve as to say that he thereby oppressed all other single women.

ism, including some modernized version of medieval guild socialism. Biblical law, not socialist slogans, is the source of our knowledge of such limits on voluntary exchange. No employment contract contrary to this law is legal in God's eyes. The civil laws of every nation should prohibit such delays in the payment of wages.

F. Bargainers: Strong, Weak, and Weakest

Because so few people are trained to think economically, they do not perceive the "things hidden": in this case, the identification of the primary victim and the primary beneficiary of this prohibited labor contract. We need to think through the effects of such a contract by means of "Levitical" reasoning, meaning *boundary* reasoning: inclusion and exclusion. The traditional pair of questions posed by economists—"Who wins?" and "Who loses?"—becomes: "Who is included?" and "Who is excluded?"

In the absence of this law, there is an implied threat to the potential worker who is unwilling or unable to extend this credit. If he refuses to extend credit to the employer, he will not get the job. This is a major threat. By contrast, the employer suffers very little by paying wages in advance. He loses a small interest return on his money. This interest *presumably* is not worth a great deal to him, especially if he is a small-scale employer, which most employers in history are.

Why only *presumably*? Because of an inescapable epistemological limit on economic science. Technically, the economist cannot make interpersonal comparisons of subjective utility, so he cannot say scientifically that the employer's gain is psychologically smaller than the worker's loss. The psychological loss or gain of the two individuals cannot be computed. There is no scientific way to measure the psychological loss to the worker of forfeiting the interest by extending credit, nor is there a way to compute the psychological loss to the employer if he is required by law to forfeit the interest by extending credit.[23] It is not necessary for us to make such a numerical computation; we can still identify the primary victim and the primary beneficiary whenever this law is violated.

We need to consider three parties in our economic analysis: the employer, the employed worker, and the excluded worker. The text does not speak of the excluded worker, nor is the average Bible com-

23. On the question of interpersonal comparisons of subjective utility, see North, *Sovereignty and Dominion*, ch. 5. Cf. Gary North, *The Coase Theorem: A Study in Epistemology* (Tyler, Texas: Institute for Christian Economics, 1992).

mentator likely to consider him, but he is crucial to the analysis. A less destitute worker may decide to accept the terms of employment: delayed payment. A destitute worker cannot afford to accept it. *The excluded worker becomes the primary victim of a delayed-wages contract*. He cannot afford to take the job. The less destitute worker takes the job. He would of course rather be paid early, but his willingness to accept delayed payment is a form of competition on his part that gives him an advantage over very poor people in the community. The Bible calls this form of competition *oppression*.

The primary economic beneficiary of this form of oppression is not the employer, for whom the interest gained by delaying payment is minimal, but rather the worker who can afford to have his wages delayed, and who therefore gets the job. He excludes his competition through oppression. *The employer here acts as the economic agent of the employed worker*. This representational relationship is not readily understood. No one without economic training will blame the employed worker for the unemployment of the destitute worker. If anyone is blamed, it will be the employer. The employer *is* to blame, judicially speaking, for he imposes the illegal terms of employment, which this law identifies as robbery. God's law designates the employer as the initiator of an evil contract, and hence *judicially liable*, as we shall see. The fact remains, however, that the worker who takes the job on these terms becomes the agent of economic oppression, while the excluded worker is the primary economic victim. The employer gains a small interest return and a small risk-avoidance return. The worker gains the promise of a wage, bears some risk of not being paid, and forfeits a small interest payment. The excluded worker, too poor to accept the contract, gains nothing. The person who appears to be the victim—the worker who takes the job—is in fact the primary economic beneficiary of this labor contract. He obtains what both of the competing workers had wanted: the job.

G. What Did the Employer Steal?

The appropriate civil sanction is not specified, as is also the case in other laws governing oppression. But in most other cases, the absence of any civil sanction points to the absence of civil jurisdiction because of excessive limits on the judges' knowledge. Not so in this instance. Restitution in this case is technically possible to compute. If victims prosecute and the courts convict, the practice will disappear from public view.

The primary judicial question is: How much does the convicted employer owe the victim? Answer: the victim's costs of prosecution plus the restitution penalty.[24] There are two approaches to establishing what restitution payment is owed by the employer: (1) by considering the forfeited interest; (2) by considering the forfeited daily wage. The second approach is valid. We must examine the first approach in detail in order to see why it is not valid. The key question that we need to answer is this: What constitutes the thing stolen? Is it the interest or the wage?

1. Interest

A withheld wage requires a worker to extend credit to his employer. For a week or two, or perhaps even a month, the worker has extended credit, day by day, to the person employing him. The employee has therefore forfeited the interest that he might have earned day by day, had he been able to put this money in the bank rather than spending it on necessities. It is obvious that the interest payments foregone would not be very much money; nevertheless, it is possible to compute what double restitution of that forfeited interest would be. However, only a very skilled person could have made this computation prior to the widespread knowledge of mathematics.[25] The average employer could not have computed this payment easily in Moses' time, let alone the average employee.

The cost to the worker of this forfeited interest would be higher to him than the cost to the employer. I am speaking here of the actual rate of interest, not psychological cost. The worker has to forfeit goods that the wages would have bought in the interim. There is no doubt that a modern worker can borrow the money to buy these goods, repaying the loan at the end of the working period. (Prior to World War I, small consumer loans from banks were unavailable to workers.) The difficulty is, a worker is not in a position to borrow money at the same low rate of interest that the employer can obtain. The poverty-stricken worker is a high-risk borrower. He can easily be

24. If the victim's court costs are not paid by the convicted criminal, very few victims will be able to sue, so the practice of discrimination will not be reduced.

25. Consider how difficult this would be apart from the use of the zero (a decimal point followed by a zero is needed to compute percentages under 10%), which came to the medieval West only through contact with Islam. The Arabs in turn learned of it in India. There is no evidence that the zero was known to any culture prior to the ninth century, A.D.—the West's era of Charlemagne. The Mayans and the Indians discovered it independently or else were in contact with each other.

trapped in a cycle of debt. When this law is honored, an employer has greater difficulty in forcing the employee into debt servitude.

Computing the forfeited interest would be difficult even today. In Moses' day, it would have been very difficult. How many judges would have been able to establish this implied forfeited payment? Not many. So, we must look for a better solution. We must turn from the technical economic concept of forfeited interest to the concept of forfeited wages.

2. Wages

It is not implied in the text that double restitution of the forfeited interest should be paid, since this is not what is specified as the thing stolen. In fact, the text does not specify the thing stolen. What *is* identified in the text as an act of theft is the refusal of the employer to pay the agreed-upon wages in a timely manner. We conclude that *the withheld wage is the thing stolen*. Thus, a civil judge can rightfully impose a much higher penalty on the employer than double the employer's forfeited interest. The thief would not simply pay double restitution on the forfeited interest; he would pay double restitution on any wages unpaid at the end of each work day.

Why so high a penalty? After all, the worker forfeited only the interest that his money might have earned. Why impose double restitution based on the entire daily wage multiplied by the number of days of delayed payment? Because God's law defines the act as *theft*.

The act is also a form of oppression, but the oppressor here is the worker who accepts the contract. He is not identified as a thief. He is not subject to criminal charges by the invisible excluded workers who cannot afford to wait to be paid.

We need to examine the employer's motivation. If his primary goal is not to earn a little extra interest be delaying wages, then what is it? Most employers adopt a policy of delaying wages today because their rivals do. This policy is almost universal in modern advanced economies. Employers give little or no thought to the practice. But what if they did give thought to it? What would their primary motivation likely be?

H. The Limits of Economic Knowledge

The Marxist would probably argue that the employer's goal is to place local workers in a totally dependent position. The poorer they are, the more desperate their economic condition. The more desperate their

economic condition, the cheaper they are willing to work. If the employer can maintain what Karl Marx once called the industrial reserve army,[26] i.e., the unemployed, he can force down local wages. His theft is therefore deliberate. One problem with this line of reasoning is that it assumes that the employer understands a complex chain of economic reasoning. He probably doesn't. Another problem is that employers like to have qualified workers competing against each other.

The key word here is *qualified*. As a former employer, I believe the typical employer is trying to minimize his risk when he hires competent workers rather than substandard workers. He delays payment because he wants to see each new worker prove himself before getting paid. This delay in payment pressures workers with little capital to quit early or never even apply for the job. *The practice of delaying wages is therefore primarily a screening device*. It favors workers who have capital in reserve. These capital reserves serve the employer as a substitute for other screening techniques. The employer's economic problem is the his lack of knowledge about the competence of the new worker. *The employer uses a delayed payment scheme in order to minimize his search costs in estimating the competence of new workers*. Accurate knowledge is not a zero-price resource. Employers try to obtain such knowledge as cheaply as possible. They use the new worker's willingness to accept delayed payments as a cost-effective substitute for more detailed information regarding the worker's abilities and his willingness to work.

I. The Limits of Judicial Knowledge

Here we have a situation where the law seems unjust. I have argued that the primary economic beneficiary of delayed payments is the worker who can afford to extend the credit and therefore gets the job. I have identified the primary economic victim as the excluded destitute worker. Yet the law identifies the employer as the robber, and the only way for a judge to impose negative sanctions is for him to require the employer to pay the employee. In other words, the *judicial* victim is not the primary *economic* victim. Why does God give the employee a lawful claim against the employer? Because this worker is the only *judicially visible* victim. He is a weak bargainer when compared to the employer. He is stronger than the destitute excluded workers, but he is still weak compared to the employer. This law is meant to protect the weak from the strong. It protects the weakest

26. Karl Marx, *Capital: A Critique of Political Economy* (1867), XXV:3 (New York: Modern Library, [1906] n.d.), pp. 689–703.

party only indirectly: by threatening the employer with penalties for robbing the weaker. Judges are not omniscient; they cannot identify the weakest workers, i.e., those who never even bothered to apply for the job because of their lack of capital. Judges provide protection to the weakest only indirectly.

The judicial problem is this: How can the judges identify the actual victims of this form of discrimination? The primary economic victim of a delayed-wage contract was the excluded worker who could not afford to take the job. He has been oppressed by the worker who took the job on the illegal terms. Exactly which workers were the excluded ones? That is to say, which workers would have gained employment had the delayed-payment system not been in force? This is virtually impossible for civil judges to determine. Knowing the harsh terms of employment, some destitute workers may not have bothered to apply. Any seemingly destitute worker might later complain to the civil authorities that he had never bothered to apply for the job because of the delayed payment feature. So, by what means can such a law be enforced? How can legitimate, predictable sanctions be imposed? What, if anything, should be done to indemnify the primary victim? This is why economic oppression is rarely a crime. The civil magistrate cannot specify the illegal criteria, the victims, or the appropriate restitution.

How can a restitution payment to the employed worker help a destitute worker who was too poor to accept the terms of employment in the first place? The judge does not restore anything to him. Nevertheless, the penalty does help the excluded worker: not as a payment to compensate him for *past* oppression but as a threat against *future* oppression. This law reduces future injustice to the weakest members of the work force by forcing the oppressing employer to pay the visible victim—the worker whose wages were withheld—instead of paying invisible victims whose claims cannot be precisely identified or resolved judicially. The agent of oppression, namely, the worker who took the job, is rewarded by the court, not for being an oppressor (which he was) but because he was the victim of a criminal act.

Part II: The Deaf and the Blind

Verse 14 deals with the deaf man and the blind man: "Thou shalt not curse the deaf, nor put a stumblingblock before the blind, but shalt fear thy God: I am the Lord" (v. 14). Neither one of them can defend himself against the specified evil. The deaf man cannot hear

the curse; the blind man cannot see the stumbling block. The person who takes advantage of their condition of weakness has broken the law of God. These are case laws. They are specific applications of more general principles. We are supposed to deduce the general law from the specific conditions described in the case law. What are these conditions? Let us consider the easiest case first.

A. Tripping the Blind

The blind man must not be tripped, since there is no way that he can adjust for the obstacle. It is not his fault that he cannot see. There is nothing that he can do about his condition. It is not a moral weakness on his part that he is blind (John 9:1–3).

The context of this law is the payment of wages (v. 13). The case law of verse 14 means that the stronger party must not use another person's inherent weakness in order to pay him less than a market wage. By implication, he must not cheat the illiterate man or the mentally retarded person. He must acknowledge the existence of the other person's weakness and not use it to take advantage of him. Where the other person is *biologically unable to compensate for his weakness*, the employer is not to profit from the other person's incapacity.

Why would anyone deliberately trip a blind man? Children do such things to the handicapped outsiders among them, but why? Why is it that handicapped children—even blind children[27]—seem to draw persecution from other children? Why do we expect our children to stop doing such things as they grow older? Why do adults regard such acts as immoral?

Or do they? The mental image of a small group taunting the village idiot is not so very foreign to us. We can imagine a group of lower-class people laughing at the distress of some poor handicapped wretch. Someone in the group might gain a few laughs by tripping a blind man. The motivation is not clear, but God's law does acknowledge the existence of the temptation. The person who trips a blind person has broken God's law.

B. Cursing the Deaf

A curse under the terms of the Mosaic law was an act of assault.[28] It still is. Modern societies still have laws on the books identifying

27. Robert V. Hine, *Second Sight* (Berkeley: University of California Press, 1993), p. 84.

28. The curse in this case means "make light," which connotes deliberate humiliation or abuse. Herbert C. Brichto, *The Problem of "Curse" in the Hebrew Bible* (Philadelphia:

curses as illegal, although these laws are rarely prosecuted by victims in our day. The Bible regards a verbal curse as a judicial act with consequences in history, just as it regards a verbal blessing.

This outlook is foreign to modern man, both humanist and pietist. Modern man does not believe that God's blessings or curses are called down on others in history because a representative covenantal agent pronounces blessings or curses. The third commandment is clear: God's name must not be taken in vain. The frame of reference is the misuse of God's holy name—a boundary violation—by someone who is not authorized to invoke that name judicially.

Cursing a deaf man is a double violation: calling down God's curses illegitimately, and cursing someone who cannot respond judicially. The deaf man is unaware of the boundary violation. Because God's name has been misused, or at least the violator has judicially misused language, society is at risk. The agent who has been authorized by God to press charges in God's name in an earthly court—the victim—is unaware of the violation. This transfers responsibility for invoking a lawsuit from the victim to the witness.

The deaf victim must be informed of the infraction, and the blind person must be informed of the identity of the person who tripped him. The blind person cannot press charges. He did not see who tripped him. Similarly, a deaf person cannot respond to a curse against him, since he did not hear it. Through no fault of their own, these victims cannot bring a lawsuit against the evil-doers who have broken God's law.

But God can. So can His lawfully appointed courts if a representative of the victim either informs the victim or, if the victim cannot press charges himself (e.g., a mental defective), the representative presses charges in the name of the victim.

Victims in these cases need spokesmen to act in their behalf. As in the case of a crime, God is the primary victim.[29] The witness serves as a spokesman for both God and the victim. This law makes it plain that God expects others in the community to take action and serve as covenant agents in the name of the victims. How else could such public infractions of this law be prosecuted? A verbal curse is a public act in defiance of God's law. Such public acts must be prosecuted, not just because they are morally wrong—many immoral acts can-

Society of Biblical Literature and Exegesis, 1963), pp. 120–22. James Jordan provided me with this reference.

29. North, *Authority and Dominion*, Appendix M:A.

not legitimately be prosecuted under biblical law—but because they are public. The public character of this form of cursing places the integrity of the society on trial, for the victim cannot hear and respond as God's designated agent. If no witness intervenes to bring formal charges, then God will take action against the evil-doer and the society that has failed to protect the handicapped victim from his persecutor.

C. The General Legal Principle: Protecting the Weakest Party

I argue that verses 13 and 14 are linked. This link is not grammatical. Then what is the link? It is two-fold. First, God wishes to protect the weakest parties in society. Second, there are limits on men's knowledge. Courts are not omniscient. Both of these laws implicitly call for agents to bring civil lawsuits against law-breakers who harm the weakest members of society. The private prosecutors must have incentives to bring their lawsuits if the evil practices are to be minimized. Because the nature of the crimes is different, the incentives are different: positive in the case of weak but employed workers, negative in the case of fearful witnesses.

To trip a blind person or curse a deaf person is to commit an active assault, either physically or verbally. The law-breaker has actively assaulted a victim who cannot prosecute. This was a public act. Thus, the crime is relatively easy to prove if two witnesses testify that someone committed the crime. The weakest victim is easy to identify.

Not so in the case of an employer who withholds wages beyond one day. First, there is no active assault. There is only a refusal to pay. Second, the weakest worker is the unemployed person who cannot afford to live without wages. He is being oppressed by both the employer and his employee. Judicially, it is not possible for a court to identify the specific worker who would have taken the job had the employer paid in advance. Therefore, in order to remove this form of indirect oppression from society, God grants to the weaker worker—the employed worker, who himself is an oppressor (though probably unknowingly)—the authority to press a covenant lawsuit in the courts on his own behalf. A small portion of the wealth of the weak worker had been transferred to the employer. This wealth transfer can be calculated for purposes of judicial restitution. Because the defrauded worker presses charges, the weakest worker is indirectly protected. The weaker worker, acting on his own behalf judicially and economi-

cally, acts as an economic agent for the weakest workers. He probably does not perceive that he is in fact acting as the economic agent of his competition. A more economically sophisticated worker would probably not press charges against his employer, since the delayed payment system excludes his competition, but there are never very many economically sophisticated workers (or anyone else, for that matter). Some workers will press charges, so the oppressive practice will be reduced.

Like the weakest excluded worker, the blind or deaf victim needs a legal agent to press charges. No one benefits economically for serving as this agent. So, God warns the potential agents to press charges. How? By announcing His name: "I am the LORD" (14b). Their fear of God and their desire to uphold His law provide the motivation to press charges, not their personal economic gain. They desire to avoid God's wrath. The threatened sanction is negative.

The reason why these two passages are linked is this*: the inability of the courts to protect the weakest victims*. The courts can take action only when someone brings a lawsuit against a perceived law-breaker. The weakest victims cannot act on their own behalf in these two types of cases. The excluded worker cannot prove that he was a victim. Similarly, the victimized blind or deaf person cannot prove that the crime took place. A biblical court system requires an agent to bring a lawsuit against the law-breaker. These case laws provide the necessary incentives for agents to bring these lawsuits.

Conclusion

Grammatically, verses 13 and 14 are not linked; ethically and judicially, they are. The links are: (1) God's protection of the weakest members in society; (2) ways to overcome the limits on men's knowledge, especially the limits on the judges' knowledge. So, the judicial cases are different—theft vs. public assault—but the general prohibition is the same: do not harm the weakest parties.

These case laws prohibit the victimization of the poorest and weakest members of the community. The case law in verse 13 deals with theft from economically weak workers and also indirect economic oppression of the most impoverished workers in the community. The most impoverished workers are those who cannot afford to extend credit to their employer. They need to be paid at the end of the work day. The employer is required to do this or else pay them in advance for a longer term of service.

This law proves that Mosaic Israel was not a debt-free society. There were creditors and debtors. A legitimate biblical goal is to reduce long-term debt, but God's civil law does not mandate absolutely debt-free living. Debt is basic to society, for society implies a division of labor. Debt will exist in a division of labor economy until such time as an economically efficient means of making moment-by-moment wage payments becomes universal.

The employer who delays payment to his workers is defrauding them. Verse 13 says this. But to do this, he is inescapably providing an opportunity for some workers to oppress their competitors. The worker who can afford to work without pay for a period is given an opportunity by the employer to steal a job away from a worker so poverty-stricken that he cannot survive without payment at the end of the day. This form of competition is illegitimate, this passage says ("fraud, robbery"). It is unfair competition. God's civil law makes it illegal for an employer to act as the economic agent of any employee against a destitute competitor. There are very few cases of unfair competition specified in the Bible, but this is one of them.

Verse 14 prohibits the active assault on the deaf and blind. We are not to attack defenseless people. The text specifies this. This case law also implicitly condemns all those who sit idly by when others *publicly* assault these defenseless people. We are required by God to become covenantal agents of those victimized people in our presence who are inherently incapable of defending themselves judicially: the deaf and the blind. We are to act as the ears of the deaf and the eyes of the blind whenever we hear or see others assault them. In short, we are to accept our role as covenantal witnesses. God reminds us of who He is: "I am the LORD" (14b).

The state has no means of imposing sanctions against those who see but do not report the crime, unless it can establish that the silent witnesses were accomplices or conspirators. *God's civil law cannot legitimately compel men to do good things.* Its role is exclusively to keep people from doing evil things. But God is not bound by the laws that bind the state. He can bring His sanctions against silent witnesses. He can act as an agent of the victims. He will act as their agent on judgment day, and perhaps in the lives of those who refuse to act as His agents in history.

Leviticus 9:14 is not a biblical injunction for the state to become a welfare agent: a dispenser of positive sanctions. The state is not to provide free hearing aids for the deaf or free seeing-eye dogs for

the blind. This law legislates against assault (cursing the deaf) and battery (tripping the blind). It implicitly commands witnesses to become legal agents of the defenseless person when someone actively, verbally assaults or physically batters him. Cursing a man is an act of assault; tripping a man is an act of battery. These acts are unquestionably illegal. It is every person's task to defend in court those who are inherently incapable of prosecuting their assailants.

The delay of payment overnight is described in the text as robbery: a crime. A judge can impose a restitution penalty on the perpetrator. There is also a hidden element of oppression: the excluded workers. To become subject to civil law, oppression must be identifiable as a criminal offense. There must be definable criteria that make the act a crime. The indirectly oppressed, excluded worker is not the victim of a crime. Ironically, the one who has oppressed him, the employed worker, is the victim of a crime: delayed payment. Even more ironically, if the oppressor brings a lawsuit against his assailant, the employer, he thereby makes it less likely that he and his employer will be able to oppress the weakest party: the excluded worker. This is why I think the excluded worker or the state acting on his behalf can bring a lawsuit against the employer to have the practice stopped.

The oppressive character of the contract should be recognized, and no legislation should ever be passed that imitates the "delayed payment" contract, with its exclusionary side effects.

14

IMPARTIAL JUSTICE VS. SOCIALIST ECONOMICS

> *Ye shall do no unrighteousness in judgment: thou shalt not respect the person of the poor, nor honour the person of the mighty: but in righteousness shalt thou judge thy neighbour.*
>
> LEVITICUS 19:15

The theocentric meaning of this law is that the state is to imitate God by doing what God does: judge all people without respect to their persons, i.e., their class, status, or power. This is an aspect of rendering judgment, part four of the biblical covenant model.[1]

A. The Rule of Law

This law is one of the two most important laws in the Bible that deal with civil government. The other verse is Exodus 12:49, which insists that civil judgment in the land of the covenant must apply to all men equally, whether strangers or Israelites: "One law shall be to him that is homeborn, and unto the stranger that sojourneth among you." Exodus 12:49 confirms the judicially binding nature of the civil law of God: biblical civil laws are to be applied equally to all people residing within the geographical boundaries of a biblically covenanted society. The same civil laws are to be applied to everyone residing in the land, regardless of race, color, creed, or national origin.[2] These binding civil laws have been revealed by God directly to mankind in the Bible, and *only* in the Bible.

All those who reside within modern geographical boundaries are

1. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler Texas: Institute for Christian Economics, [1987] 1992), ch. 4. Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: American Vision, 2010), ch. 4.

under a particular state's sanctions,[3] but not all of these people are citizens. This means that they are not being represented judicially as members of an earthly court. They are not part of the civil hierarchy even though they are under the law. If they were part of it, they could apply judicial sanctions for or against these representatives by voting. What God's law requires is that civil magistrates, as *agents of God's heavenly court*, represent these people. The judges represent God in man's courts, and they represent men under their jurisdiction in God's court. This is why civil authorities are called *ministers* by Paul (Rom. 13:4, 6). They possess *ministerial authority*. Judges must therefore apply the Bible's civil laws impartially to residents who are inside the geographical boundaries of a covenanted society but who are outside the judicial hierarchy. The publicly visible evidence of the judges' representative authority in God's heavenly court is their faithfulness in applying God's law impartially.

Almost every legal theorist in Western society accepts the principle of equality before the law. This ideal is one of the bedrock foundations of Western civilization. It comes from the Bible, not from Greek and Roman law, both of which explicitly denied the concept of equality before the civil law. Classical law protected only citizens: males who had lawful access to the religious rites of the city. Women (half the adult population), slaves (one-third of all males), and foreign-born residents were excluded. The ultimate manifestation of the biblical principle of equality before the law in history was God the Father's willingness to place His incarnate son, Jesus Christ, under the negative sanction that had threatened Adam. Paul writes: "He that spared not his own Son, but delivered him up for us all, how shall he not with him also freely give us all things?" (Rom. 8:32). Among these things that God gives is liberty. It is a product, along with other judicial factors, of the ideal of equality before God's law. (It is not, contrary to the textbooks, a product of Classical Greek political theory or practice.)[4]

B. Natural Law Theory: Ethical Dualism

The issue of the absolute authority of God's specially revealed civil law challenges the competing theoretical structure of natural law, nat-

3. The modern exceptions are people who reside in foreign embassies and the ambassadors themselves, even when outside their embassies. They are under their own nations' legal orders inside the boundaries of their embassy buildings.

4. Appendix D: "Greek Mythology: The Myth of Classical Politics."

ural reason, and natural revelation. We need to ask: Can these three *theoretical ideals* serve as sufficient guides for establishing God's legal requirements? Or is direct revelation from the God of the Bible mandatory covenantally in the civil realm?

Let us take the easiest case to analyze. God told Adam that he was not to eat of the tree of the knowledge of good and evil. If natural law, natural reason, and natural revelation were sufficient to inform mankind of the judicial boundaries established by God, then why did God reveal to Adam this single binding law and its single negative sanction? Adam was morally perfect. His eyes were not yet blinded by sin. The creation was without blemish in Genesis 2. It did not yet provide misleading information to mankind. But God nevertheless revealed His law verbally to Adam. Why? *Because natural law, natural reason, and natural revelation alone are not sufficient to enable men to know God's binding covenant law in its entirety*. If this was true for Adam, then it is surely true today, since men possess only fallen reason, and the creation itself is under a curse.

Had God's civil laws been revealed in some way other than through direct verbal revelation to Moses by God, such as through the universal reason of mankind, there would have been no need for God to require that the whole law be read publicly in Israel every seventh year (Deut. 31:9–13).[5] Men would already have known this requirement "rationally." But they did not know.[6] Then what do men know? They are responsible before God, so they must know *something* about God's law. Men always know enough about God's covenant law to get themselves condemned by God eternally—the *work* of the law (not the law itself) written in their hearts (Rom. 2:14–15)[7]—but not enough to enable them to build the kingdom of God in history. This is why those Christians who affirm natural law rather than biblical law as the sole authoritative moral standard for society almost always also explicitly deny that it is either possible or required by God that Christians build the kingdom of God in history as God's designated judicial agents.[8]

5. Gary North, *Inheritance and Dominion: An Economic Commentary on Deuteronomy*, 2nd ed. (Dallas, Georgia: Point Five Press, [1999] 2012), ch. 75.

6. If this analysis is true, then the ideal of political pluralism is anti-biblical. See Gary North, *Political Polytheism: The Myth of Pluralism* (Tyler, Texas: Institute for Christian Economics, 1989).

7. John Murray, *The Epistle to the Romans*, 2 vols. (Grand Rapids, Michigan: Eerdmans, 1959), I, pp. 72–76. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 4.

8. I have in mind all Protestant ethical dualists, from Martin Luther to Norman

The inherent ethical dualism of natural law theology has had catastrophic effects in history. The dualism between Bible-revealed personal Christian ethics and religiously neutral, universally perceivable civil law inescapably demobilizes Christians in society and simultaneously anoints pagans as the lawful interpreters of natural law. Ethical dualism inevitably places God's designated judicial agents—Christians—under the civil and cultural authority of Satan's designated judicial agents. Why? Because it places natural law, natural revelation, and natural reason above God's revealed law, His progressively restored creation,[9] and the mind of Christ (I Cor. 2:16).[10] *There is no neutrality; there is always judicial hierarchy*. Some law-order must be on top. Some transgressors of this law-order must be on the bottom. Christian natural law theorists in principle place a hypothetically neutral natural law on top and Christians on the bottom.

In the early stages of this cultural conquest by covenant-breakers, natural law theory is a highly useful tool for covenant-breakers in their epistemological and political disarming of Christians. The

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Geisler. Luther was amillennial; Geisler was premillennial-dispensational; both denied that God's kingdom can triumph in history through the Spirit-backed efforts of Christians. On Luther's ethical dualism between Christian ethics and civil ethics, see Charles Trinkaus, "The Religious Foundation of Luther's Social Views," in John H. Mundy, *et al., Essays in Medieval Life* (Cheshire, Connecticut: Biblo & Tannen, 1955); Gary North, "The Economics of Luther and Calvin," *Journal of Christian Reconstruction*, II (Summer 1975), pp. 76–89. See also Harold Berman, *Law and Revolution, II: The Impact of the Protestant Reformations on the Western Legal Tradition* (Cambridge, Massachusetts: Belknap Press of Harvard University, 2003), pp. 73–77. On Geisler's equally dualistic ethics, see Norman L. Geisler, "Natural Law and Business Ethics," in Richard C. Chewning (ed.), *Biblical Principles and Business: The Foundations* (Colorado Springs: NavPress, 1989), pp. 157–74. Geisler explicitly identified the work of the law (Rom. 2:14) with natural law: *ibid*., p. 158. God holds all men responsible for their acts; hence, Geisler concluded, if some men do not know about God's revealed law, God cannot lawfully condemn them. "If there is no natural law," Geisler said, "God is unjust." *Ibid*., p. 160. Geisler misunderstood biblical justice. Natural law, natural reason, and natural revelation are sufficient to condemn every sinful person to hell and the lake of fire, but they are insufficient to enable people to build the kingdom of God. God's system of sanctions for the reprobate is simple and clear: "Heads, I win; tails, you lose." For proof, see Romans 9:10–21.

9. Gary North, *Is the World Running Down? Crisis in the Christian Worldview* (Tyler, Texas: Institute for Christian Economics, 1988).

10. Gary North, *Judgment and Dominion: An Economic Commentary on First Corinthians*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 2. The mind of Christ is imputed to His people at the time of their conversion, and it is progressively revealed in history, both individually and corporately, through their covenantal faithfulness. Anyone who denies this progressive, corporate, intellectual sanctification must also deny the progress of the church's various theological confessions. I know of no Christian who is willing publicly to deny the progress of the confessions at least through 1647 or 1788.

infiltrators applaud ethical dualism: separate ethical standards for believers and skeptics, but a common civil law-order for all. This common law-order must not be based on some "narrow" appeal to standards uniquely revealed in the Bible, an ethical handbook for covenant-keepers only. Dualism keeps Christians happily subservient to politically successful pagans in the name of Jesus. That is to say, *dualism keeps Jesus covenantally subordinate to Satan on earth and in history*. When Norman Geisler asks, "Whose ethical standard shall we use?" and immediately answers, "a moral law common to all men"[11]—natural law for the natural man—he has in principle delivered society into the hands of Satan's designated judicial agents in history. The natural man does not receive the things of the Spirit (I Cor. 2:14).[12] Therefore, the ethical dualist is logically compelled to affirm, the Holy Spirit has nothing judicially binding to say or do with society and politics. If He did, then the natural man, not being able to receive the things of the Spirit, would be spiritually unreliable to exercise civil authority. Political pluralism rests philosophically on ethical dualism, for it asserts the legitimacy of common citizenship based on religiously neutral civil law. *Ethical dualism necessarily asserts the judicial irrelevance of the Holy Spirit to both social theory and political theory*. For almost two millennia, ethical dualism has been the dominant outlook of the church's main spokesmen. The main exceptions historically were the New England Puritans of the first generation, 1630–60. They were self-consciously theocratic in their outlook.[13]

There is no neutrality. The ethical dualist denies this with respect to civil law. By elevating natural law, natural reason, and natural revelation above God's inspired word for the purpose of establishing social and political theory, the Christian ethical dualist has anointed the covenant-breaker as the lawful master of the covenant-keeper in every area of life outside the four walls of the Christian church and the Christian family. But the consistent covenant-breaker is not about to honor these two fragile, judicially unprotected institutional boundaries, any more than Pontius Pilate honored the innocence of Jesus Christ against the Pharisees' court.

Here is the problem: Christian ethical dualists keep insisting, century after century, that the Pilates of this world are judicially reliable.

11. Geisler, "Natural Law and Business Ethics," p. 157.

12. North, *Judgment and Dominion*, ch. 2.

13. On their theocratic legal theory, see Charles Lee Haskins, *Law and Authority in Early Massachusetts: A Study in Tradition and Design* (New York: University Press of America, [1960] 1985).

The Pilates of this world are supposedly not in need of personal regeneration and the revelation of the Bible in order to carry out their lawful and judicially neutral cultural mandate in history. On the contrary, we are assured, they need only be faithful to "ancient Hindu, Chinese, and Greek writings," to cite Dr. Geisler's recommended primary sources.[14] This is why Christian ethical dualists are at war with biblical civil law, biblical civil sanctions, and covenantal postmillennialism.[15] Christian natural law theorists implicitly offer this daily prayer to God: "Thy kingdom not come, thy will not be done in earth as it is in heaven." (Unless, of course, they become really consistent and argue that natural law in principle should rule in heaven, too. Then their prayer becomes: "Thy kingdom come, thy will be done in heaven as it is on earth." We do not find such consistent ethical dualists.)

C. Sanctions: Evaluation and Imposition

Biblical civil justice must seek to apply written laws to public acts. Neither the social status nor the economic class of either the victim or the accused is to be considered in judicial proceedings. The pronouncement by the judge or the jury regarding the fit between the law and the public act of the accused is to be based solely on the law and the evidence. Justice is never impersonal; it is wholly personal: the law, the act, the evidence, and the court's judgment.

Judgments should involve the imposition of sanctions: blessings (on the victim) and cursings (on the criminal). There is no neutrality. *Any failure to impose biblical sanctions, apart from the permission of the victim, is necessarily the imposition of unbiblical sanctions.* Biblical sanctions are limited. There must be the application of sanctions, but the victim always has the right to reduce the sanctions. Biblical sanctions are always based on the principle of restitution: to God and the victim.[16] The victim is to gain back what he lost plus a penalty payment. But biblical sanctions must not exceed what is legally appropriate to the crime. This places limits on the judges. The judges are not to declare greater sanctions than God's law allows. The judges therefore are under a legal boundary.

The imposition of the sanctions restores the judicial *status quo ante*.

14. Geisler, "Natural Law and Business Ethics," p. 158.

15. Gary North, *Millennialism and Social Theory* (Tyler, Texas: Institute for Christian Economics, 1990), ch. 12.

16. North, *Authority and Dominion*, Appendix M.

Judicially, at the end of the trial and after the sanctions have been imposed, both the victim and the criminal are restored to their original judicial status. Their *economic* status has changed. This is because of the restitution payment. The victim is richer than before the commission of the crime. The convicted criminal is poorer than before the commission of the crime. This fact categorically denies the ideal of economic equality. The economic positions of the two individuals are not equal after the sanctions have been enforced. On the other hand, the judicial positions of the individuals are equal after the sanctions have been imposed. Therefore, *judicial equality before the law* has to mean *economic inequality after the sanctions have been imposed*. The civil law determines the maximum extent of the change in economic positions. The victim is entitled to reduce the penalty.[17] Also, under the Mosaic Covenant, the kinsmen-redeemer was entitled to pay the victim in the name of the convicted criminal. If this was not the case, then Jesus Christ, the archetypical Kinsman-Redeemer, cannot lawfully pay for our sins against God. The Mosaic kinsman-redeemer became poorer than he would have been had the crime not been committed. Once the restitution payment was made by anyone, the judicial status of each party was restored to what it had been prior to the commission of the crime. Both the victim and the criminal could return to honest work. Their legal status was restored to what each had been prior to the commission of the crime.

D. No Respect for Persons

Leviticus 19:15 is an application of Exodus 12:49. Exodus 12:49 insists that the same laws must apply to everyone. Leviticus 19:15 specifically identifies two groups that must be treated equally in civil courts: the poor and the mighty. While Exodus 12:49 refers to covenantal rivals—the stranger in the land and the Israelite—Leviticus 19:15 refers to the legitimate differentiation of wealth and power. *This verse formally legitimizes the simultaneous existence of degrees of power and degrees of wealth within the holy commonwealth*. The poor man is to be judged by the same law as the rich man.

The focus here is not simply on the law itself, but on the person who is actually bringing formal judgment as a member of the court. This is the *judicial agent* who determines the validity of a particular lawsuit. Men are not to respect persons in rendering judgment.

17. *Ibid.*, Appendix M:G, J.

> Ye shall not respect persons in judgment; but ye shall hear the small as well as the great; ye shall not be afraid of the face of man; for the judgment is God's: and the cause that is too hard for you, bring it unto me, and I will hear it (Deut. 1:17).
>
> Thou shalt not wrest judgment; thou shalt not respect persons, neither take a gift: for a gift doth blind the eyes of the wise, and pervert the words of the righteous (Deut. 16:19).
>
> Wherefore now let the fear of the LORD be upon you; take heed and do it: for there is no iniquity with the LORD our God, nor respect of persons, nor taking of gifts (II Chron. 19:7).
>
> These things also belong to the wise. It is not good to have respect of persons in judgment (Prov. 24:23).
>
> For there is no respect of persons with God (Rom. 2:11).
>
> But he that doeth wrong shall receive for the wrong which he hath done: and there is no respect of persons (Col. 3:25).
>
> But if ye have respect to persons, ye commit sin, and are convinced of the law as transgressors (James 2:9).
>
> And if ye call on the Father, who without respect of persons judgeth according to every man's work, pass the time of your sojourning here in fear (I Peter 1:17).

E. The Theology of the Poor; or, Poor Theology

From the late 1960s through the late 1980s, a movement known as liberation theology had considerable influence on the thinking of highly educated—i.e., humanist-certified—North American evangelical Christians and Latin American Roman Catholic priests.[18] This movement developed out of a self-conscious attempt by Communists and far-Left heretical Christian groups to fuse Marxist social diagnoses and solutions with biblical rhetoric.[19] This phrase became the rallying point of the liberationists: "God is on the side of the poor." Is

18. The major English-language publishing house for liberation theology is Orbis Books. The major ecclesiastical organization is the Roman Catholic Maryknoll order.

19. Introductory books, critical of the movement, are Michael Novak (ed.), *Liberation North, Liberation South* (Washington, D.C.: American Enterprise Institute, 1980); Gerard Berghoef and Lester DeKoster, *Liberation Theology: The Church's Future Shock* (Grand Rapids, Michigan: Christian Library Press, 1984); James V. Schall, S.J., *Liberation Theology in Latin America* (San Francisco: Ignatius Press, 1982); and Ronald Nash (ed.), *Liberation Theology* (Milford, Michigan: Mott Media, 1984) A neo-orthodox critique is J. Andrew Kirk, *Liberation Theology: An Evangelical View from the Third World* (Atlanta, Georgia: John Knox Press, 1979).

this phrase true? No, and Leviticus 19:15 is the most obvious passage in the Bible demonstrating the phrase's falsehood. Hardly less powerful in this regard is Psalm 62:9: "Surely men of low degree are vanity, and men of high degree are a lie: to be laid in the balance, they are altogether lighter than vanity." Conclusion: "Trust not in oppression, and become not vain in robbery: if riches increase, set not your heart upon them" (Ps. 62:10). In short, judge righteously.

The Bible says specifically that God is on the side of the righteous. Occasionally, the Bible does say that God identifies with certain members of the poor. The poor who are poor, not by their own fault, and especially those who are poor because of oppression by others, become identified with God by God's grace. God does care for the righteous. But the Bible makes it clear that God is not on the side of the poor in general. This is why liberation theology is heretical when it is not actually apostate.[20]

In his book, *Rich Christians in an Age of Hunger* (1977), Ronald J. Sider devoted a chapter to the topic "God and the Poor." This book established Sider as the primary "theologian of the poor" in the American evangelical Protestant community.[21] The peculiar fact about Sider is that he understands the meaning judicially of Leviticus 19:15. He understands that the Bible insists that no one should be partial to a poor man in his law suit. Sider said, "God instructs His people to be impartial because He Himself is not biased." He even cited Exodus 23:3: "Neither shalt thou countenance a poor man in his cause." But then he went on to deny the meaning of the texts he had just cited. In the extension of his remarks, he transforms biblical theology into a form of liberation theology. "The most crucial point for us, however, is not God's impartiality, but rather the result of His freedom from bias."[22] Note the phrase: "not God's impartiality," meaning not God's

20. Most of the time it is apostate. It is too often merely baptized Marxism. Its adherents now face a spiritual crisis: since 1989, Marxism has become terribly passé. For them, this is a far greater psychological blow than mere apostasy.

21. In England, John R. Stott held this position after 1970.

22. Ronald J. Sider, *Rich Christians in an Age of Hunger: A Biblical Study* (Downers Grove, Illinois: InterVarsity Press, 1977), p. 83. This book was co-published by the liberal Roman Catholic publishing house, The Paulist Press. I cite his 1977 edition rather than his updated, 1984 edition. The later edition was his attempt to escape the devastating critique of his book offered by David Chilton in *Productive Christians in an Age of Guilt-Manipulators: A Biblical Response to Ronald J. Sider*, 3rd ed. (Tyler, Texas: Institute for Christian Economics, [1985] 1990). Sider never mentioned Chilton's work (and about a dozen other free market critics) in his 1984 edition, despite its promise on the cover that it responded to his critics. The 1984 edition disappeared from Christian bookstores in short order, indicating that the Sider fad was over. The first edition of

judicial impartiality. Sider focused instead on what he says are the economic *results* of this impartiality—the economic results of God's "freedom from bias." He did not explore the implications of the *impartial application of biblical law*; instead, he invokes God's care for the poor. "The text declares Yahweh's impartiality and then immediately portrays God's tender care for the weak and disadvantaged."[23] Immediately? Tender care for the poor? Nothing like this appears immediately after Exodus 23:3, Leviticus 19:15, or Deuteronomy 1:17, the only texts he cites on impartial justice. The text he then cites is Deuteronomy 10:17–18.[24] His concept of "immediately" is textually unique.

Having referred in passing to Leviticus 19:15 and two confirming texts, he then rejects their message. His exposition makes clear what the nature of his objection to Leviticus 19:15 really is: *he wanted specific economic results rather than impartial civil justice*. This is the judicial heart of the dispute between free market capitalism and socialism. This has always been the judicial heart of the dispute. The civil courts can judge impartially, case by case, or else they can hand down decisions that consistently reward the poor. They cannot do both. Sider was correct: we must choose which kind of civil justice we want, impartial justice or class justice. He wanted the latter. Unfortunately for his theological position, the Bible demands the former.

F. Two Kinds of Equality

The same inescapable choice confronts all those who proclaim the moral and judicial legitimacy of the goal of equality. Which kind of equality do we want? Free market economist and legal theorist F. A. Hayek made it very clear that we can choose between two kinds of equality, but we cannot gain them both simultaneously. We can pursue *equality under the law*, or we can pursue *equality of economic results*,

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Chilton's book in 1981 completely destroyed the credibility of Sider's economic views among conservatives, and the Left later moved to "excommunicate" Sider when he publicly identified homosexuality as a major sin. Caught in the ideological crossfire, he then disappeared from public view except for an occasional interview published in some small-circulation magazine. The 1990 edition of his book was rarely seen in bookstores. In 1997, the fourth edition appeared, in which he abandoned most of the anti-capitalistic rhetoric of the earlier editions. He even adopted some of David Chilton's views. Still, he failed to mention Chilton's book, which indicates just how badly it had injured him. By 1997, the Sider fad was over, even for Sider. See North, *Inheritance and Dominion*, Appendix F: "The Re-Education of Ronald J. Sider."

23. Sider, *Rich Christians*, (1977), p. 83.

24. *Ibid*., p. 84.

but we cannot rationally pursue both simultaneously. He wrote in 1960: "From the fact that people are very different it follows that, if we treat them equally, the result must be inequality in their actual position, and that the only way to place them in an equal position would be to treat them differently. Equality before the law and material equality are therefore not only different but are in conflict with each other; and we can achieve either the one or the other, but not both at the same time. The equality before the law which freedom requires leads to material inequality."[25]

The Bible requires equality before the law. *The inescapable result of impartial civil justice is economic inequality*. This fact is an affront to all socialists and semi-socialists (i.e., defenders of the corporate state).[26] They want to redistribute wealth by state compulsion, either through state ownership of the means of production (socialism) or though adjusting the incentives of the economy, even though legal ownership remains with private individuals or organizations (fascism, Nazism, and Keynesianism).[27] Always, the socialists focus on the supposed need for *specific economic results* rather than the need for an impartial declaration of impartial law and the impartial application of predictable sanctions. Therefore, Sider concluded, "the God of the Bible is on the side of the poor just because he is *not* biased, for he is a God of impartial justice."[28]

Notice what Sider did. He said that God is uniquely on the side of the poor because He is not biased. In other words, God is on the side of the poor because He is a God of impartial justice. Logically, this has to mean that the poor are poor in history because of other people's unrighteousness. If his statement does not mean this, then

25. F. A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), p. 87.

26. George Reisman, *The Government Against the Economy* (Ottowa, Illinois: Caroline House, 1979).

27. The two systems were linked from the beginning. Keynes admitted in his Preface to the 1936 German language edition of his *General Theory of Employment, Interest, and Money*: "The theory of aggregate production, which is the point of the following book, nevertheless can be much easier adapted to the conditions of a totalitarian state than the theory of production and distribution of a given production put forth under the conditions of free competition and a large degree of laissez-faire. This is one of the reasons that justifies the fact that I call my book a *general* theory." A side-by-side translation of the Preface in the original German edition is found in James J. Martin, *Revisionist Viewpoints* (Colorado Springs: Ralph Myles Press, 1971), pp. 203, 205. The citation appears in *The Collected Writings of John Maynard Keynes* (New York: St. Martin's, 1973), VII, p. xxvi.

28. Sider, *Rich Christians*, p. 84.

the impartial application of biblical law would not consistently reward the poor as a class. But Sider called for judicial impartiality and *therefore* the redistribution of wealth from the rich to the poor. This means that, in Sider's universe, the poor are necessarily victims of unjust oppression. This oppression is what makes them poor. Therefore, "Salvation for the rich will include liberation from their injustice."[29] He equated "the rich" with "injustice."[30]

This perspective on poverty is basic to all socialist thought. The socialist blames poverty on the capitalist system, not on scarcity and not on immoral behavior on the part of the poor. The phrases that Sider and his colleagues used again and again are "structural injustice"[31] and "structural evil,"[32] meaning unjust institutions. It is therefore not cursed mankind (Gen. 3:16–17) and cursed nature (Gen. 3:18–19) that bring poverty, the socialist insists.[33] Widespread poverty as a social phenomenon is always explained by capitalism's critics as the result of unjust institutions that are in turn the product of politically powerful rich men who successfully exploit others. This is a vision of a universe not under a curse, not populated by sinners, and not under God's judgments in history—factors that would frequently bring people under the negative sanction of poverty. Proverbs 19:15—another 19:15 verse that is despised by the socialists—tells us: "Slothfulness casteth into a deep sleep; and an idle soul shall suffer hunger." The socialist discounts this message almost to zero.[34]

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29. *Idem*.

30. With no explanation, later in the book he identifies poverty as a "curse" and wealth as "good and desirable." *Ibid*., p. 127. Never defining justice as impartial application of biblical law, he then said: "The crucial test is whether the prosperous are obeying God's command to bring justice to the oppressed." *Ibid*., p. 128. This is formally correct, but it is meaningless unless there are standards of civil justice and economic oppression independent of mere wealth or poverty.

31. *Ibid*., p. 87.

32. *Ibid*., ch. 6: "Structural Evil & World Hunger."

33. Mises wrote: "Most social reformers, foremost among them Fourier and Marx, pass over in silence the fact that the nature-given means of removing human uneasiness are scarce. As they see it, the fact that there is not abundance of all useful things is merely caused by the inadequacy of the capitalist mode of production and will therefore disappear in the 'higher phase' of communism." Ludwig von Mises, *Human Action: A Treatise on Economics* (New Haven, Connecticut: Yale University Press, 1949), p. 644n.

34. So, by the way, did fundamentalist C. I. Scofield, of the *Scofield Reference Bible* fame. Sider quoted him at the beginning of Chapter 9: "The present social order is the most abject failure the world has ever seen. . . . Governments have never learned yet to so legislate as to distribute the fruits of the industry of their people. The countries of the earth produce enough to support all, and if the earnings of each was fairly distributed it would make all men toil some, but no man toil too much." Scofield, *Our Hope*, X (August 1903), pp. 76–77. Scofield, a dedicated defender of the dispensational escape

G. Which Poor?

The biblical question is not whether God is on the side of the poor. The question is this: Why is God on the side of *some* of the poor? The liberation theologians never ask this question. They ought to ask another one, too: Was God on the side of poor people in Egypt when he killed the firstborn sons in all of the Egyptian families? Was God on the side of the Canaanites when He told the Israelites to destroy all of them (Deut. 7:16)? Was God on the side of the poor in Assyria and Babylon when he brought judgment against them: Assyria being destroyed by Babylon, and Babylon being destroyed by the Medo-Persian empire? What about all the poverty-stricken people who came under God's wrath under the Old Covenant? Above all, *what about all the poor who perished in the Noachic Flood*? Why was God not on their side? Why didn't God defend them against His own vengeful hand? Why did God pull down the very waters of the heavens and raise up the oceans against the whole population of mankind if it is true that God is on the side of the poor?

The answer is quite simple: God is *not* on the side of the poor. *God is on the side of the righteous*.

Time and again, God brought the poor of Old Covenant Israel under judgment. He brought them under foreign domination by a whole series of invaders, from Phoenicia to Rome. He had no mercy whatsoever for them just because they were poor. Rich and poor alike in Israel were repeatedly brought under judgment: this is the crucial judicial point. It was not that God was on the side of the poor; it was that God was totally opposed to the population of Israel, and later the population of Judah. *God was on the side of God*. God was on the side of His law and His righteousness. All those who opposed His law and His righteousness by disobedience to His covenant came under His righteous indignation. He did not respect persons. He did not respect classes. He did not respect the social status of anyone. He brought them all under judgment because all but the remnant had rebelled against Him. This included the exploited poor in Israel. When Israel was in rebellion, there is no doubt that rich men exploited poor men, but exploiters and exploited alike went into captivity.

When God speaks of being on the side of the poor, it means that He is on the side of *the poor in spirit*. Blessed are the poor, Christ prom-

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religion, is found to support Sider, a defender of the statist power religion. This should surprise no one; pietism and authoritarianism are usually in an operational alliance against dominion religion. Cf. North, *Authority and Dominion*, ch. 1.

ised. Blessed are the meek. But this means *poor in spirit* and *meek before God*. It does not mean that poverty-stricken people who are poor because of their own economic or moral mismanagement are going to inherit the kingdom of God. It does not mean that people who are professionally meek are going to inherit the kingdom of God. The text does not say that the wimps shall inherit the kingdom of God; it says that the meek shall inherit, and it always means *meek before God and therefore active before men*. Wrote radical theologian John C. Raines of Calvin's view of man: "Calvin understood the Christian life not as 'a vessel filled with God' but as an active 'tool and instrument' of the Divine initiative. But this is precisely our point. Active toward the world, the Christian knows himself as utterly passive and obedient toward God, whose Will it is his sole task to discover and obey."[35]

Covenant-breakers, refusing to become meek before God, cannot indefinitely sustain an active attitude toward the external world. Many Western intellectuals since 1965 have been ready to accept the passivity of pantheism, if not its theological presuppositions. If the Creator God of the Bible is not above the creation, with mankind beneath Him and over the creation, then mankind becomes merely part of the creation, without a meaningful appeal beyond it. This leads to passivity in the face of the creation. The "deep ecology" movement is evidence of this trend from humanistic activism to passivity. Deep ecology theory places man under the dominion of nature.[36] For example, forest fires caused by non-human events are supposed to be left alone and allowed to burn themselves out, since they are natural phenomena. Fire fighting is not natural. The long-popular American government cartoon figure, Smokey Bear, is not appreciated by deep ecologists. Smokey's slogan, "Only *you* can prevent forest fires," is the essence of ecological activism, which deep ecologists reject except insofar as it can be used as a justification for mandatory human population control by the state: fewer people to start unnatural forest fires. The United States National Park Service adopted a let-burn policy in 1987. It led in 1988 to the disastrous million-acre fire at Yellowstone National Park: almost half the park. Yellowstone was the world's first national park (1872). From 1972 to 1987, only 34,000

35. John C. Raines, "From Passive to Active Man: Reflections on the Revolution in Consciousness of Modern Man," in *Marxism and Radical Religion: Essays Toward a Revolutionary Humanism*, eds. John C. Raines and Thomas Dean (Philadelphia: Temple University Press, 1970), p. 114.

36. For a non-scientist's defense of "deep ecology," see Bill McKibben, *The End of Nature* (New York: Random House, 1989).

acres had burned. By the time the National Park Service reversed its let-burn policy, after one month of fires (late June through late July), it was too late. The Park Service's prediction of August rains did not come true. The fires raged out of control until September 10, when it rained. They cost $120 million to fight. But the Park Service seems to have persuaded the American press that its let-burn policy is sound ecological science.[37]

H. The Rich

Is God on the side of the rich? Consider this: God promises great blessings of wealth and prosperity to those who are covenantally faithful, but warns them not to forget Him, "Lest when thou hast eaten and art full, and hast built goodly houses, and dwelt therein; And when thy herds and thy flocks multiply, and thy silver and thy gold is multiplied, and all that thou hast is multiplied; Then thine heart be lifted up, and thou forget the LORD thy God, which brought thee forth out of the land of Egypt, from the house of bondage" (Deut. 8:12–14).[38] God does the same in Proverbs 11:28: "He that trusteth in his riches shall fall: but the righteous shall flourish as a branch."[39]

The Bible's picture of God's blessings in history to those who are covenantally faithful is a picture of widespread prosperity. The idea of being *covenantally faithful* is connected covenantally to the idea of *getting rich*. This does not mean that every covenantally faithful person does get rich in history, because there are covenantally unfaithful people who from time to time are allowed by God to become oppressors: "All things have I seen in the days of my vanity: there is a just man that perisheth in his righteousness, and there is a wicked man that prolongeth his life in his wickedness" (Eccl. 7:15). This is true when covenantally faithful people are a tiny minority in a society that is overwhelmingly perverse. The best example of that in Scripture is the family of Lot. Lot was vexed (II Peter 2:7) because he was living in a society that was covenantally rebellious. God removed him from that society and immediately brought total historic judgment against that society. *But God favors wealth; He does not favor poverty*. God favors the wealthy *if* they are wealthy because of their previous

37. Micah Morrison, *Fire in Paradise: The Yellowstone Fires and the Politics of Environmentalism* (New York: Morrow, 1993). The United States Forest Service, a rival bureaucracy, wanted to fight the fires.

38. North, *Inheritance and Dominion*, ch. 21.

39. Gary North, *Wisdom and Dominion: An Economic Commentary on Proverbs*, 2nd ed. (Dallas, Georgia: Point Five Press, [2007] 2012), ch. 33.

righteousness—righteousness being defined as living in conformity to God's Bible-revealed law. God favors the triumph of the righteous in history, and part of this triumph is their accumulation of wealth. The Bible says specifically that the wealth of the wicked is laid up for the just (Prov. 13:22b).[40] *Wealth is not laid up for the poor; it is laid up for the just*. The wealth of the wicked is going to be removed from them because of their wickedness, and transferred to the just. The poor in spirit and the meek before God will inherit the earth.

I. The Middle Class

Is God on the side of the middle class? That is to say: Is middle class income God's economic goal for most people throughout history? *Yes*. Most people should pray Solomon's recommended prayer: "Remove far from me vanity and lies: give me neither poverty nor riches; feed me with food convenient for me: Lest I be full, and deny thee, and say, Who is the LORD? or lest I be poor, and steal, and take the name of my God in vain" (Prov. 30:8–9).[41] Most individuals are supposed to strive for conventional comforts, but not for great wealth. Individuals are also to do what they can to stay out of poverty. This indicates that there will always be conventional standards of wealth and poverty. This also indicates that there will always be the rich and the poor. Normal Christians are supposed to strive to be in the middle so as to become defenders of righteousness, and not be tempted to do evil either as rich men or poor men. Like any other quest for special blessings from God, *the quest for wealth is not to be attempted for its own sake*. We are to seek first God's kingdom, and all these things will be added unto us (Matt. 6:33). This refers primarily to covenantal blessings corporately experienced.

1. Corporate Blessings

This doctrine of *progressive corporate sanctification* and its resultant corporate blessings is why Christians should strive mightily to live in the midst of an increasingly wealthy society that is enjoying the compound external blessings of God because of the progressive economic sanctification of the vast majority of at least its employed members—a sanctification forced on them by intense worldwide competition. A stock market investment proverb says, "A rising tide raises all ships,"

40. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 15.

41. *Ibid.*, ch. 41.

i.e., an individual stock will go up in value when all stocks do. Middle-class people get richer over time in an era of collective blessings. They do not need the best things in life in order to regard themselves as blessed. Economic growth is a valid biblical goal. We should not forget that prior to the rise of Puritanism in late sixteenth-century England, with its defense of biblical law and covenantal postmillennial eschatology, no civilization had ever adopted a doctrine of long-term economic growth. Long-term economic growth was not believed to be possible.

The middle-class orientation of the Bible therefore does not mean that there should not be rising wealth for most or even all members of society. Certainly in the late twentieth century, poor people in the West were far richer in goods than the vast majority of kings ever were in the history of man. This is especially true if the king contracted a disease like cholera.[42] The advancement of twentieth-century public health programs was the best testimony to the wealth of the poorest man in a rich, blessed, formerly covenantally faithful nation.[43] Falling infant mortality rates are the single best sign of God's blessing today. Most newborn babies are expected to live long enough to become adults; two centuries ago, they were not. Similarly, kings before 1846 did not have anesthetics during surgery. Who today would trade places with one of them when the surgeon wields his scalpel? Kings did have treasuries of gold and silver, meaning shiny pieces of metal that might buy them some extra time in a crisis or extra food in a

42. Peru, which experienced an outbreak of cholera in 1991, was also the victim of the Shining Path Marxist guerrillas, massive socialist intervention, bureaucratic corruption, and widespread addiction to the coca leaf. It is a poor nation because its people are committed to ethical rebellion. Only after 1991 was there a reversal in Peru. Fujimori, a candidate supported by Christian evangelicals, won the presidential election and began freeing up the economy.

43. Public health programs are part of the state's lawful authority to resist invaders: bacteria, germs, and so forth. The state is a defensive agency authorized by God to bring negative sanctions against invaders. The bacteria do not honor household boundaries. They must be placed under quarantine—if necessary, by placing their carriers under quarantine: a biblically legitimate action of the civil magistrate (Lev. 13, 14). The invaders must be thwarted by collective action. Man's war against the mosquito is a representative example. It takes a co-ordinated campaign analogous to a military campaign to reduce the threat of mosquito-borne diseases. Gordon Harrison, *Mosquitos, Malaria, and Man: A History of the Hostilities Since 1880* (New York: Dutton, 1978), chaps. 15–27. The only absolute victory over a disease of man has been the eradication of smallpox in the 1970s, whose microscopic agents now exist only in a few laboratories. Public health programs are not the same as socialized medicine, which involves the state's distributing of positive sanctions to some individuals at the expense of others.

famine. But very wealthy people were always at risk. There could be famine, plague, fire, flooding, and the general burdens of life prior to the industrial revolution. Kings and oligarchs did not have television to entertain them, inexpensive books to inform them, video disks or other digital technologies to record images of their children to view in their old age, or any of the myriad of benefits that the poor can buy today. Consider what this would have been worth to almost anyone on the face of the earth as recently as the late nineteenth century. What a king's ransom would have been available to the person who could go into a household for just one day to record the activities of that household: a permanent electronic memory for the wealthy. Gold? Silver? Lots of it. Shiny pieces of metal in exchange for permanent electronic memories? What rich person wouldn't have traded?

The biblical economic ideal is middle-class prosperity for individuals and a rising standard of living for all. This ideal is always limited to individuals who are actively seeking the will of God and obeying it. As they become more competent, as they become better judges, as they become more economically productive, they are expected by God to get richer. The Bible tells us that through corporate covenantal faithfulness, society's technical knowledge and therefore its wealth can and should produce a rising tide of per capita prosperity. By breaking God's covenant, society smashes the cornucopia. But this may not be visible overnight: "Because sentence against an evil work is not executed speedily, therefore the heart of the sons of men is fully set in them to do evil" (Eccl. 8:11).

2. Avoiding Spiritually Unnecessary Temptations

The Bible is clear: there are great temptations associated with both wealth and poverty, and the righteous man should strive to remain in the middle of these two conditions, so that he does not subject himself to extensive temptation. The Bible affirms middle-class morality, middle-class values, and middle-class income. These standards have long been openly ridiculed by humanist intellectuals. This is ironic, given the middle-class origins of most intellectuals. Liberation theologians were especially contemptuous of the middle-class morality of most evangelical Christians. That was one of the anomalies of late twentieth-century "Christian" thought.

The average Christian is to pray for middle-class status precisely because he is average. He is average in terms of productivity; he is average in terms of his ethical conformity to God's law; and he is

average in terms of his earthly expectations. He probably does not want to pay the price of great wealth, either an ethical payment or a payment in terms of great wealth's high costs of added responsibility. He does not want to become an over-achiever precisely because he does not want to pay the price of becoming an over-achiever. He recognizes the truth Jesus proclaimed: "For unto whomsoever much is given, of him shall be much required: and to whom men have committed much, of him they will ask the more" (Luke 12:48b).[44]

What is true of wealth is equally true of every other area of performance and reward. For example, the classroom instructor should not encourage all of his students to earn a straight-A average. Few students can achieve this, few should achieve this, and few will achieve this.[45] There is no reason to encourage frustration by calling all students to strive for comparative perfection. All students are nevertheless required by God to strive to raise their individual performance at the margin. If obeyed, this command will raise the average level of the group's performance, even though fewer than half of them can beat the class average. Like runners in a race, only one person can come in first, but all of them may be capable of beating the previous record.[46]

The general principle is this: we are to strive to become profitable servants, even though sinful men can never become profitable (net) servants in history. The principle of the division of labor determines that some people will be better at some things than most other people (Rom. 12:4–8;[47] I Cor. 12[48]). There will be winners and losers in every competition. Nevertheless, as individuals and also as a covenantal corporate unit, Christians are to strive for mastery over sin and mediocrity.

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44. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 28.

45. It is possible, however. If the test is graded numerically so that the student with the highest score (say, 100 points) gets an A, and an arbitrary percentage of this score is defined as failure (say, 60% or below, i.e., 60 points), and the difference (40 points) is divided up in equal portions (10 points per grade, A through D), every student could receive an A if each scores higher than 90 points. This is the grading system I adopted when I taught. I learned it from my high school civics teacher, Wayne Roy.

46. A few weeks after I wrote the original draft of this chapter, this happened at the 1991 world track and field championships in Tokyo. At age 30, Carl Lewis broke the world record in the 100-meter dash, and the runner-up also broke the old record, which he had set three months earlier.

47. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 9.

48. Gary North, *Judgment and Dominion: An Economic Commentary of First Corinthians* (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 15.

J. The Righteous

God is on the side of the righteous. There are few principles in the Bible that are of greater judicial and economic importance. In verse after verse, book after book, the Bible testifies to the fact that God is on the side of the righteous. I reproduce a long list of supporting verses in the hope that readers will acknowledge the extent of God's commitment to the righteous. Both amillennialism and premillennialism deny the relevance of these verses as they apply to history.[49] But these verses *do* apply to history: "Behold, the righteous shall be recompensed in the earth: much more the wicked and the sinner" (Prov. 11:31). There are dozens of these verses, all ignored by liberation theologians. I have decided to cite many of them in order to make my point and also to maintain Ronald Sider's silence. (My favorite is Psalm 58:10, although I do not interpret it literally. It is the thought that counts.) Read them all, so as to drill the basic point into your ethical decision-making: there are predictable covenantal sanctions in history.

> And Abraham drew near, and said, Wilt thou also destroy the righteous with the wicked? Peradventure there be fifty righteous within the city: wilt thou also destroy and not spare the place for the fifty righteous that are therein? That be far from thee to do after this manner, to slay the righteous with the wicked: and that the righteous should be as the wicked, that be far from thee: Shall not the Judge of all the earth do right? And the LORD said, If I find in Sodom fifty righteous within the city, then I will spare all the place for their sakes (Gen. 18:23–26).

> Keep thee far from a false matter; and the innocent and righteous slay thou not: for I will not justify the wicked. And thou shalt take no gift: for the gift blindeth the wise, and perverteth the words of the righteous (Ex. 23:7–8).

> If there be a controversy between men, and they come unto judgment, that the judges may judge them; then they shall justify the righteous, and condemn the wicked (Deut. 25:1).

> Then hear thou in heaven, and do, and judge thy servants, condemning the wicked, to bring his way upon his head; and justifying the righteous, to give him according to his righteousness (I Kings 8:32).

> Therefore the ungodly shall not stand in the judgment, nor sinners in the congregation of the righteous. For the LORD knoweth the way of the righteous: but the way of the ungodly shall perish (Ps. 1:5–6).

49. North, *Millennialism and Social Theory*, ch. 6.

For thou, LORD, wilt bless the righteous; with favour wilt thou compass him as with a shield (Ps. 5:12).

The eyes of the LORD are upon the righteous, and his ears are open unto their cry (Ps. 34:15).

The righteous cry, and the LORD heareth, and delivereth them out of all their troubles (Ps. 34:17).

Many are the afflictions of the righteous: but the LORD delivereth him out of them all (Ps. 34:19).

For the arms of the wicked shall be broken: but the LORD upholdeth the righteous (Ps. 37:17).

I have been young, and now am old; yet have I not seen the righteous forsaken, nor his seed begging bread (Ps. 37:25).

The righteous shall inherit the land, and dwell therein for ever (Ps. 37:29).

But the salvation of the righteous is of the LORD: he is their strength in the time of trouble (Ps. 37:39).

Cast thy burden upon the LORD, and he shall sustain thee: he shall never suffer the righteous to be moved (Ps. 55:22).

The righteous shall rejoice when he seeth the vengeance: he shall wash his feet in the blood of the wicked (Ps. 58:10).

So that a man shall say, Verily there is a reward for the righteous: verily he is a God that judgeth in the earth (Ps. 58:11).

The righteous shall flourish like the palm tree: he shall grow like a cedar in Lebanon (Ps. 92:12).

Surely he shall not be moved for ever: the righteous shall be in everlasting remembrance (Ps. 112:6).

The LORD openeth the eyes of the blind: the LORD raiseth them that are bowed down: the LORD loveth the righteous (Ps. 146:8).

He layeth up sound wisdom for the righteous: he is a buckler to them that walk uprightly (Prov. 2:7).

The LORD will not suffer the soul of the righteous to famish: but he casteth away the substance of the wicked (Prov. 10:3).

The hope of the righteous shall be gladness: but the expectation of the wicked shall perish (Prov. 10:28).

The righteous is delivered out of trouble, and the wicked cometh in his stead (Prov. 11:8).

> When it goeth well with the righteous, the city rejoiceth: and when the wicked perish, there is shouting (Prov. 11:10).
>
> Though hand join in hand, the wicked shall not be unpunished: but the seed of the righteous shall be delivered (Prov. 11:21).
>
> He that trusteth in his riches shall fall: but the righteous shall flourish as a branch (Prov. 11:28).
>
> The wicked are overthrown, and are not: but the house of the righteous shall stand (Prov. 12:7).
>
> The light of the righteous rejoiceth: but the lamp of the wicked shall be put out (Prov. 13:9).
>
> Evil pursueth sinners: but to the righteous good shall be repayed (Prov. 13:21).
>
> The righteous eateth to the satisfying of his soul: but the belly of the wicked shall want (Prov. 13:25).
>
> The evil bow before the good; and the wicked at the gates of the righteous (Prov. 14:19).
>
> In the house of the righteous is much treasure: but in the revenues of the wicked is trouble (Prov. 15:6).
>
> The LORD is far from the wicked: but he heareth the prayer of the righteous (Prov. 15:29).
>
> The wicked flee when no man pursueth: but the righteous are bold as a lion (Prov. 28:1).
>
> When the righteous are in authority, the people rejoice: but when the wicked beareth rule, the people mourn (Prov. 29:2).
>
> When the wicked are multiplied, transgression increaseth: but the righteous shall see their fall (Prov. 29:16).

There is no escape from this conclusion; the texts are clear: *God is on the side of the righteous as such, not the poor as such*. Why should God be on the side of the righteous? Because He announced to His people: "For I am the LORD that bringeth you up out of the land of Egypt, to be your God: ye shall therefore be holy, for I am holy" (Lev. 11:45). *Holiness is the same as righteousness*. God is righteous; so, His people should be righteous. God is righteous; so, He brings blessings in history to His people who are righteous. God is righteous; so, He brings negative sanctions against those who are not righteous. God is righteous; so, *some people are deservedly poor*. This is what the socialist does not want to consider.

For centuries in the West, Christian theology was manifested in civic poor laws that distinguished between what was known as the deserving poor and the undeserving poor.[50] There were some people who were poor, not through their own fault, but through external circumstances. For example, one of the great economic threats to man has been fire. Without fire insurance, an eighteenth-century invention, a fire could reduce a rich man to absolute poverty in an evening. Such a victim would have been regarded, other things being equal, as a member of the deserving poor. Such people deserved better, and society was required by God to treat them better, but for the moment they were poor.

The deserving poor who deserved aid were always contrasted with the undeserving poor. It was well understood by Christians throughout history that *some people deserve to be poor*. In fact, some people deserve death. God, however, in his mercy sometimes allows people who are deserving of death to suffer poverty instead. He gives them more time, but He does not give them extensive positive blessings. Every society understands this. Every theologian when pressed would probably admit this, but there is a question of emphasis. The liberation theologians almost never talk about the undeserving poor, i.e., those who do not deserve open-ended assistance because to give them assistance would be to subsidize evil. The liberationists almost never talk about the fact that a righteous society must bring economic sanctions against its unproductive members. They do not talk about the fact that a society that is totally equal economically would be the most unrighteous possible society. Such a society could only be established by means of coercive wealth distribution from the productive rich to the deservedly poor.

Then what of the poor? In a godly society, there should not be a vast horde of poor people. As a society progresses in its covenantal faithfulness to God, the total wealth of a society is expected to increase. God brings His covenantal judgments in a positive fashion in history: the blessings outnumber the curses most of the time. History moves forward. Mankind is given ever-increasing supplies of capital in order to subdue the earth. As this capital growth process takes place, per capita wealth increases. Nevertheless, there will always be people who fall into the lowest third of national income. The only way that we could escape from this in history would be if hell were

50. Brian Tierney, "The Decretists and the 'Deserving Poor,'" *Comparative Studies in Society and History*, I (1959), pp. 360–73. Cf. Tierney, *Medieval Poor Law: A Sketch of Canonical Authority and Its Application in England* (Berkeley: University of California Press, 1959), p. 52. This view also was basic to Puritanism. Michael Walzer, *The Revolution of the Saints* (New York: Atheneum [1965] 1968), p. 217.

a society based on equality. If hell brought equal negative sanctions to everyone inside its boundaries, it might be theoretically possible to speak of an egalitarian society in history. If all sins were equal in God's eyes, and if sanctions were equally applied, then equality in hell would be a reality. Yet, even in hell, there is no equality (Luke 12:47–48).[51] Clearly, there is no equality in heaven (I Cor. 3:8–15).[52] So, the ideal of the *equality of results* is entirely mythical. It is a lie of the devil, who understandably wishes it were true.

K. Sanctions and Inequality

Because God does not respect persons, He rewards and punishes people in terms of their actions and thoughts in history. He rewards individuals in time and eternity in terms of their conformity to His law. He rewards societies in terms of their outward conformity to His law. He brings positive and negative sanctions in history. Therefore, *there is no aspect of God's creation that displays equality of results*. There is no area of God's final judgment that displays inequality of judgment before the law.

1. Impartiality and Inequality

The *impartiality* of God leads to *disparities of rewards*. Those who achieve a great deal are given great rewards. Those who achieve average results are given average rewards. Those who achieve below-average results receive below-average rewards. Those who are out of covenantal favor with God are said to have nothing, and what they have is taken away from them (Matt. 13:12).[53] That is to say, they are cast out of the presence of God and tortured eternally without mercy.[54] But they are not tortured equally (Luke 12:47–48).[55]

Inequality of results is an inescapable outcome of the *inequality of men's productivity*, given the existence of impartial justice. Put another way, impartial justice—justice that does not bring sanctions or evaluate public actions in terms of a person's economic status or legal status—inevitably produces inequality of economic results. When the judge imposes double restitution on the criminal, he inescapably cre-

51. North, *Treasure and Dominion*, ch. 28.

52. North, *Judgment and Dominion*, ch. 3.

53. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 27.

54. Those Christians who are squeamish about the word "torture" may prefer to substitute the word "torment." See Matthew 18:34 and Luke 16:24.

55. North, *Treasure and Dominion*, ch. 28.

ates inequality of economic results. This is exactly what God does in history. When God brings His judgment into history, there will be unequal economic results.

It is basic to the socialist perspective of all liberation theologians to deny this principle. They seek equality of results, and therefore they inescapably recommend policies that are a flat denial of the biblical principle of impartiality of justice. *Liberation theology is a self-conscious rebellion against Leviticus 19:15*. Its defenders seek to confuse their followers and their readers on this point. Impartial justice that is applied in a world made up of people with differing capacities and differing degrees of righteousness will inevitably produce inequality of economic results. It is this outcome of biblical law which enrages and outrages almost all modern Christian theologians, especially those who are either neo-evangelical college professors (outside of the natural sciences) or liberation theologians. They call for the state to use the threat of violence to steal the wealth of the successful and transfer it to the unsuccessful. They call for socialism: the state's control over resources through bureaucracy. They prefer the political sanctions of bureaucrats to the economic sanctions of consumers.

2. Politically Correct Thought

There is a socialist-approved exception to this socialist ideology of equality of results, however: the classroom. Marxists, feminists, and assorted Left-wing ideologues teach in colleges and seminaries. They are lawfully sanctioned classroom tyrants who hand out sanctions: grades. Any student who challenges their heretical or apostate theology is risking a D, an F, or even dismissal from the campus.

Imitating their secular peers, theological liberals have hired and fired faculty members for generations in terms of this principle: no professor is to suggest that biblical law should be enforced. They have screened the entire Christian academic community in terms of this principle. They impose vengeance: sanctions without mercy. They have sought to establish entire faculties that do not deviate from humanism's party line. To achieve this, they have imposed inequality of standards and have produced unequal results: students who are coerced for ideological reasons and fellow faculty members who are humiliated into silence. This same policy went on without an institutionally significant challenge in secular institutions until 1990.[56] It

56. Charles J. Sykes, *Profscam: Professors and the Higher Education Game* (Washington, D.C.: Regnery, 1988). Regnery, a small conservative publishing firm, had no influence,

is today difficult to find an American institution of higher education that mandates that the Bible be used to judge the both the content and structure of every academic discipline. Some would say it is impossible. It was impossible yesterday, too—all the way back to the University of Paris in the twelfth century.

The law of God testifies against the legitimacy of any society that seeks the equality of results. God's law testifies against any society that uses the power of the civil government to redistribute wealth on any basis except one: the proportional restitution payment from a criminal to his victim.

The Bible is quite clear. There must be no respect of persons. Because individuals have different abilities, there must be inequality of economic results if God's law is enforced without respect of persons. The only justification for the state to intervene to take wealth from one individual and give it to another individual is that the first individual has been convicted in a civil court due process of law for having committed a crime against the second individual. *The quest for restitution for a specific crime or broken contract is the only legitimate way for an individual to seek the economic intervention of the state against another individual.*

In contrast to this principle of civil justice is the socialist ideal: the equality of economic results. This equality is pursued by using civil power to take wealth from those who have legally gained it through competition in a market with open entry, and to redistribute it to those who have done nothing to receive it other than being statistically classified as poor. Nevertheless, the poor are still with us. So is a growing horde of middle-class bureaucrats who administer the government-mandated anti-poverty programs. The United States' Federal bureaucracy extracts as administration expenses at least half of the Federal government's total expenditures on welfare programs.[57] This is why there is an entrenched high-income voting bloc in support of these programs, despite the taxes required to pay for them.

Formally educated, state-certified members of the middle class staff the state's wealth-redistribution system, which vastly increases

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nor did Sykes' brilliant book. After the collapse of Communism in 1989 came Roger Kimball, *Tenured Radicals: How Politics Has Corrupted Our Higher Education* (New York: Harper & Row, 1990); Page Smith, *Killing the Spirit: Higher Education in America* (New York: Viking, 1990); Dinesh D'Souza, *Illiberal Education: The Politics of Race and Sex on Campus* (New York: Free Press, 1991). These books were published by major publishers.

57. James L. Payne, *The Culture of Spending: Why Congress Lives Beyond Our Means* (San Francisco: ICS Press, 1991), p. 51.

their wealth and status at the expense of both the rich and the poor. The welfare state has been the great rewarder of middle-class and upper-middle-class people who have gained access to those government positions involved in the welfare distribution process. In a perverse way, these people have sought the middle-class position that the Bible says that the average person should pray for, but these people have not prayed; they have preyed. They have preyed on the rich; they have preyed on the poor. They have kept the rich in a position of permanent anxiety about taxation, and they have kept the poor in permanent status as poor, with almost no hope of escaping the clutches of the welfare system.[58] Yet this system is defended (with the obligatory "it is admittedly unfortunate that. . . .") by the vast majority of Christian academics in the late twentieth century, all in the name of biblical theology. Sometimes, as in the case of Ronald Sider, it is even defended in the name of Leviticus 19:15.

L. The Rejection of Biblical Economic Blueprints

The biblical standard of civil justice is simple to state: one law-order for all men, with judges acting impartially to apply God's revealed laws to specific cases. The judicial principle is this: "No respect for persons."

1. The Bible vs. Socialism

With this as the judicial standard, it is impossible to obey God's law and simultaneously promote the idea of socialism. The socialist ideal is a society that manifests economic equality apart from market performance: the satisfaction of consumers. The socialist state's ideal is to enforce a wealth transfer from the rich to the poor, with the poor formally represented by the state. The owners of capital are to be forced by the state to give up either ownership (socialism) or control (fascism) of the tools of production: land, labor, and capital.

The socialist aims at *equality of economic results*. The Bible insists on *equality before God's law*. The two standards cannot be reconciled. To enforce the law impartially in a world filled with people who possess different goals, talents, and capital is to make impossible the equality of economic results. *The socialists' economic ideal and the Bible's judicial ideal are irreconcilable*. This is why Christian socialists and economic interventionists categorically reject biblical law. They deny that the

58. Charles Murray, *Losing Ground: American Social Policy, 1950–1980* (New York: Basic Books, 1984).

Bible offers blueprints for economics. They deny that it offers permanent economic or political models. They insist that the Bible is open-ended with respect to economics, making the Bible useless as a guide to political economy. They do this because the Bible very clearly establishes principles of legal order that outlaw all forms of socialism, and the critics hate free market capitalism. So, they make statements such as these:

> [Keynesian:] The fact that our Scriptures can be used to support or condemn any economic philosophy suggests that the Bible is not intended to lay out an economic plan which will apply for all times and places. If we are to examine economic structures in the light of Christian teachings, we will have to do it in another way.[59]

> [Communal socialist:] Since koinonia includes the participation of everyone involved, there is no blueprint for what this would look like on a global scale. . . . We are talking about a process, not final answers.[60]

> [Socialist:] There is in Scripture no blueprint of the ideal state or the ideal economy. We cannot turn to chapters of the Bible and find in them a model to copy or a plan for building the ideal biblical state and national economy.[61]

The goal is equality of economic results: "Championing the cause of the poor will lead us to labor for justice and a greater degree of equality for all people."[62] Notice his language: "all people"—righteous and unrighteous, workers and drones, wise and foolish, Christians and atheists, and above all, covenant-keepers and covenant-breakers. This is Satan's initial lure: equality for all. And then, when his covenantal disciples gain control, Christians discover the truth: the systematic oppression of covenant-keepers by covenant-breakers. It is a replay of the creation of government-funded day schools that were promoted in the United States by Unitarian radicals from the 1830s onward. These schools initially were defended on the principle of "equal time for all views."[63] What we subsequently found was the institutional triumph of the religion of autonomous man: no time for Jesus.

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59. William E. Diehl, "The Guided-Market System," in Robert G. Clouse (ed.), *Wealth and Poverty: Four Christian Views of Economics* (Downers Grove, Illinois: InterVarsity Press, 1984), p. 87.

60. Art Gish, "Decentralist Economics," *ibid*., p. 154.

61. John Gladwin, "Centralist Economics," *ibid*., p. 183.

62. Robert G. Clouse, "Postscript," *ibid*., p. 224.

63. R. J. Rushdoony, *The Messianic Character of American Education: Studies in the History and Philosophy of Education* (Phillipsburg, New Jersey: Presbyterian & Reformed, [1963]).

It is always the same with the advocates of "no biblical blueprints." First, they tell us: "The Bible does not *require* free enterprise." We then ask these anti-blueprint Christian socialists: "Then does the Bible at least *allow* free enterprise?" Their answer is immediate: "No; never the free market. Something else; anything else; but never the free market." So, the Bible apparently does provide an *anti-blueprint*: no free market.

The handful of Christian scholars who write against socialism generally refuse to defend their opposition in terms of the Bible. They rely on atheistic and agnostic free market economists to carry their water in their refutations of the writings of atheistic and agnostic socialist economists, whose works the Christian socialists have cited (if any) in search of academic support. Thus, we find Reformed Theological Seminary professor Ronald Nash (a follower of Calvinist philosopher Gordon Clark) defending the familiar academic party line of epistemological neutrality:

> This book is not an attempt to produce a system of Christian economics. There is no such thing as revealed economics. There is no such thing as positive Christian economics.[64]

> Attempts to deduce any political or economic doctrine from the Bible should be viewed, initially at least, with skepticism. After all, the Bible is no more a textbook on economics than it is on astronomy or geology. There is no such thing as revealed economics.[65]

If the Bible really is not a textbook for economics and politics, and if there really is no such thing as Bible-revealed economics, then all attempts to deduce political and economic doctrines from the Bible must be met with something more than mere initial skepticism. Such attempts should be met automatically with a full-scale frontal assault, i.e., total rejection, not to mention outrage. After all, such deductions are inescapably heretical if it is true that the Bible does not reveal morally *and academically* binding principles of economics. Dr. Nash was altogether too wishy-washy. It was not sufficient for him to dismiss *The Other Side*, *Sojourners*, InterVarsity Press, and William B. Eerdmans Publishing Company in a chapter called "The Christian War Against Economics."[66] He should also forthrightly have led his assembled academic troops in a second campaign: "The War Against

64. Ronald Nash, *Poverty and Wealth* (Westchester, Illinois: Crossway, 1986), p. 12. Reprinted by Probe Books, Richardson, Texas.

65. *Ibid.*, p. 59.

66. *Ibid.*, ch. 1.

Christian Economics." He should have faced the fact that he was conducting a two-front war: the Evangelicals for Social Action on his left; the Institute for Christian Economics on his right. It was time for him to prove, argument by argument and verse by verse, why the works of the Institute for Christian Economics are at best misguided and at worst heretical. He had to show why Bahnsen's *Theonomy in Christian Ethics* is wrong and Volume 1 of Rushdoony's *Institutes of Biblical Law* is worse.

Here is a secondary question: How are Christians to defend the six-day creation from the evolutionists if the Bible does not provide the authoritative revelational foundation for textbooks on geology and biology? Also, what about sociology, education, and every other social science? Is the Bible's revelation regarding God, man, law, causation, and time not authoritative? This self-conscious denial of the existence of biblical blueprints is inescapably a surrender to the covenant-breaker in every area of academic life. But those Christians who wish to teach in tax-funded state universities, as Nash did through most of his career as a professor of philosophy and religion at Western Kentucky University, or in private secular humanist universities, face a painful choice: (1) reject the suggestion that the Bible provides authoritative blueprints as well as content for their chosen academic discipline; (2) devote their lives to teaching in class what they do not believe is true: officially neutral, and therefore anti-biblical, courses; (3) get fired for teaching religious dogma. Needless to say, the first decision is the path of least resistance. Those who take it can retain their academic respectability as well as their paychecks. This is exactly what the secularists pay them to do, and they do it remarkably well. Even when they leave the employment of the state, they rarely recant their earlier academic presuppositions.

2. Blueprints: An Inescapable Concept

Blueprints are an inescapable concept. It is never a question of "blueprints vs. no blueprints." It is always a question of *whose* blueprints. Blueprints establish boundaries. They include and therefore must also exclude. Rival systems of law and economics are excluded by blueprints. *There has to be a blueprint*. This is why there is a biblical economic blueprint.[67] Either this blueprint excludes the various forms of socialism or else it includes socialism and excludes the free

67. Gary North, *Inherit the Earth: Biblical Blueprints for Economics* (Ft. Worth, Texas: Dominion Press, 1987).

market. There is no halfway house in between, no permanently mixed economy. There are biblical economics and biblical civil justice, and there are all the other covenant-breaking rival positions.

3. Christian Professors vs. the Bible

This assertion is rejected almost automatically by the vast majority of Christians who hold teaching positions as economists in secular institutions. Typical are the arguments of Ian Smith, a lecturer in economics at St. Salvator's College in St. Andrews University in Scotland. In a *Festschrift* to Carl F. H. Henry, America's leading neo-evangelical social theologian after 1945, Smith surveyed various attempts by non-theonomic Christian economists to present a Christian alternative to secular economics. He found all such attempts "rather limited" and "pedestrian." He continued: "Perhaps this is inevitable. The Bible does not furnish us with specific and authoritative economic models that can be directly applied to contemporary society. Some authors have disputed this observation and sought to devise a biblical economics based on the Old Testament law. However, a reliance on the Mosaic legislation to provide a blueprint for reconstructing the modern economy is theologically dubious and culturally anachronistic."[68] The idea of a biblical blueprint was anathema to him. ("Anathema," of course, is far too judicial a word for such men to employ. It implies permanent negative sanctions.)

Without so much as a footnote to even one book by a theonomist, he dismissed "Rushdooney" (misspelled), North, and Bahnsen.[69] He admitted that "The Pentateuch is also the richest biblical resource in terms of economic content. . . ." He also admitted that "Much more detailed and precise analyses and proposals have been forthcoming from the theonomists than from other Christian camps."[70] But he nevertheless dismissed theonomy as misguided. He spoke representatively for the whole of the modern Christian academic world: "The corollary of this position that I am affirming is that none of the Mosaic legislation per se is binding as independent *lex*. New covenant believers are not obliged to obey it, not one jot or tittle; on the other hand, they do fulfill it by living in conformity with the new covenant to which the old covenant points. In short, Christians live

68. Ian Smith, "God and Economics," in *God and Culture: Essays in Honor of Carl F. H. Henry*, eds. D. A. Carson and John D. Woodbridge (Grand Rapids, Michigan: Eerdmans, 1993), p. 178.

69. *Ibid.*, p. 176.

70. *Idem*.

under the stipulations of the New Testament and interpret the Old christologically."[71]

Having dismissed the entire Old Testament as judicially non-binding, he then concluded that Christian economics is "perhaps" inevitably pedestrian. In short, having stripped Christianity of its binding legal content, he then found Christian economics pedestrian. He was like a man who first removes all the black marbles from an urn filled with black and white marbles, and then discovers that all the marbles are boringly white. Christian academics prefer pedestrian academic alternatives to contemporary humanism. This way, they can continue in good conscience to receive their above-market, taxpayer-subsidized paychecks from state universities. They can continue to be members in good standing of covenant-breaking secular faculties. They can continue to sell their birthrights for a mess of tenure.

Nevertheless, in order also to maintain their good standing in evangelical local congregations, they rush to affirm their verbal commitment—a highly deceptive commitment—to the Old Testament. Smith wrote: "However, this does not preclude studying the Old Testament social system as a rich ethical resource, so long as it is not appealed to as normative—that is, divinely ordained as authoritative for today."[72] He could as easily have appealed to the Koran or the Talmud as a "rich ethical resource." This is cafeteria ethics: you select whatever you like and leave the rest behind. Smith's verbally gushing praise for God's supposedly non-binding revealed word was a polite way of saying, "If I were unmarried, I could commit bestiality if I felt like it, since there's no New Testament law prohibiting it." Such Christian scholars are quite willing to defend the economics of perversion in the name of Jesus. Their name is legion.

4. The Economics of Perversion

The existence of biblical economic blueprints was loudly denied by Douglas Vickers, a Keynesian economist and defender of the "mixed economy" who presented his case against Christian economics in the name of the Bible and Cornelius Van Til's presuppositional apologetics. In his secular calling, Vickers wrote a post-Keynesian money and banking textbook.[73] His two Christian economics books

71. *Ibid.*, p. 177.
72. *Ibid.*, p. 178.
73. Douglas Vickers, *Money, Banking, and the Macroeconomy* (Englewood Cliffs, New Jersey: Prentice-Hall, 1985).

are open in their rejection of the continuing validity of Mosaic law, including the Bible's economic laws. He was consistent when he rejected: (1) the ideal of a judicial theocracy,[74] (2) the ideal of the possibility of reconstructing society along biblical lines,[75] (3) the ideal of a free market economic order,[76] and then proclaimed as the Christian economic standard an even greater extension of the range of state economic intervention than is promoted by the twentieth century's principle of the mixed economy.[77] Vickers acknowledged that the Mosaic economy stands against the graduated income tax system of the modern world. His response was to reject the ideal of the Mosaic economy. "If, of course, we were legislating for an ideal society, or, again, for a theocratic order of an earlier kind, then a strictly proportional tax, such as the tithe, would probably be all that would be required."[78] He regarded John Maynard Keynes, the homosexual Cambridge economist (B.A., mathematics; no Ph.D.), whose *General Theory of Employment, Interest, and Money* (1936) established the overwhelmingly dominant economic outlook of the modern era, as having "brought something of morality back into economics."[79] Dr. Vickers was a believer in the economics of perversion.[80] So are most of his fellow Christian academics in the social sciences. This is why they are adamant: *no biblical law*! Biblical law precludes socialism, fascism, and the Keynesian mixed economy.

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74. "...Christian economics cannot proceed as though it was in some sense legislating for the economic structure of a theocracy." Douglas Vickers, *Economics and Man: Prelude to a Christian Critique* (Nutley, New Jersey: Craig Press, 1976), p. 73.

75. "It is accordingly improper to speak of the fact or the possibility of a Christian society. For society at large is apostate, inherently and structurally pagan." *Ibid.*, p. 363.

76. "But there has been, nevertheless, throughout the nineteenth century and down to the present time, notwithstanding the historical testimony of the debacles of slump and inflation and depression and boom, a yearning for the intellectual simplicities of the l*aissez-faire* theory, and for an espousal of the economic proposition that that government governs best which governs least." *Ibid.*, pp. 349–50.

77. "In the outcome, we have seen that a Christian perspective on the economic problem will necessarily fragment into a number of operational objectives in the kind of mixed capitalist economies with which we are familiar in the Western democracies. And we have seen, without recapitulating any detail at all at this point, that it is possible to set against these operational objectives a range, a wider range than might initially have been imagined, of legitimate economic policy instruments and options." *Ibid.*, p. 352.

78. *Ibid.*, p. 319.

79. *Ibid.*, p. 350.

80. Ian Hodge, *Baptized Inflation: A Critique of "Christian" Keynesianism* (Tyler, Texas: Institute for Christian Economics, 1986). This is a detailed critique of Vickers by a non-economist who, unlike Vickers, understands free market economics.

M. Legislating Morality

Are Christians required by God to oppose socialism in all forms? Yes. Are they then required to pressure the state to pass civil laws that sanction private property? Yes. Are they morally required to elect political representatives who then repeal all laws that restrict the use of private property except in cases that the Bible prohibits specific uses (e.g., homosexual prostitution and pedophilia)? Yes. Does this mean that Christians are required to legislate morality?[81] In the sense that they are to legislate against certain forms of public immorality, yes. There is only one alternative to legislating morality: legislating immorality. But doesn't this mean the establishment of religion? Yes. *All civil legislation is the establishment of some religion*. Thus, the Bible requires this legislation to be explicitly biblical: Old and New Testaments. Every nation is required by God to become formally, judicially Trinitarian. "And Jesus came and spake unto them, saying, All power is given unto me in heaven and in earth. Go ye therefore, and teach all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Ghost" (Matt. 28:18–19). Civil government is not exempted from the Great Commission.[82]

On the contrary, we are assured by those who reject biblical blueprints, the Bible also does not provide a blueprint for establishing a theocracy, i.e., the rule of God over civil government. Then does the Bible at least allow theocracy as one option among many? "No; theocracy must be avoided, although all other political systems are conformable to the Bible's non-blueprints." So, the Bible supposedly provides an *anti-blueprint*: no theocracy. And so it goes. What the Bible categorically requires, these critics "inside the camp" deny as illegitimate even as an option in a supposedly open-ended world. Why? Because if the Bible really does provide judicial blueprints, there is no biblically legitimate possibility of a judicially or institutionally open-ended world. *There is no morally legitimate "process" outside the limits of the Bible's judicial blueprints*. This conclusion appalls them. They would rather surrender three-fourths of the Bible than accept such a conclusion. And so they have done, generation after generation. They believe that the Old Testament is "God's word, emeritus."

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81. George Grant, *Legislating Immorality: The Homosexual Movement Comes Out of the Closet* (Chicago: Moody Press, 1993).

82. Kenneth L. Gentry, Jr., *The Greatness of the Great Commission: The Christian Enterprise in a Fallen World* (Tyler, Texas: Institute for Christian Economics, 1990), ch. 10.

Conclusion

Leviticus 19:15 establishes a fundamental principle of justice: the impartial application of God's legal standards to all men, irrespective of their wealth or status. It proclaims the judicial principle of equality before the law. This biblical principle of civil justice is the antithesis of all socialism. The socialist proclaims the need for the equality of economic results, not equality before the law. There is no way to achieve the former without abandoning the latter, and vice versa. Logically, the socialist has to deny the legitimacy of Leviticus 19:15; logically, the defender of Leviticus 19:15 has to deny socialism. People are not always logical, however. What we find is that defenders of Christian socialism either ignore the existence of Leviticus 19:15 or else reinterpret it to mean the opposite of what it says. They interpret it, as Sider interprets it, to mean that the judge must uphold the poor man in his cause. But upholding the poor man in his cause is as great a sin as upholding the mighty in his cause. The text says so.

The response of Christian socialists and welfare statists has been to deny that the Bible offers biblical blueprints for economics. Any appeal by a Christian economist to the Mosaic law is rejected as illegitimate. This has to be their response, since the legal order of the Mosaic Covenant, if obeyed, would inevitably produce a free market social order. Without the Mosaic law, however, it is not possible to say what kind of social and economic order would have to develop from Christianity. Thus, in order to leave the social order biblically open-ended, the Christian defenders of the welfare state are forced to deny that the Bible offers any blueprints at all. Then they tell us what kind of economic order they would like to see established in God's name (by way of Keynes, Marx, or no economist at all).[83]

The issue of wealth redistribution through taxation is never discussed by Christian defenders of the welfare state in terms of Samuel's warning in I Samuel 8: a tyrannical king is marked by his willingness to extract as much as 10% of his subjects' net income. To return to such a "tyrannical" tax rate, every modern industrial nation would have to cut its average level of taxation by 75%. Yet Christian defenders of the welfare state insist that far too much money is left in the hands of today's citizens. We need more "economic justice" in the name of Jesus, they say. We need greater taxation of the wealthy—and the not-so-wealthy. We need a "graduated tithe."

83. Clouse (ed.), *Wealth and Poverty*: the absence of economists.

The biblical solution is to restrict total personal and corporate taxation—national, regional, and local taxation *combined*—to less than 10% of net income, just as the tithe lawfully collected by the combined levels of a national church's hierarchy is limited to 10%. But this Old Covenant limit on taxation is too confining for welfare statists.

The state today asserts an implicit claim to be the primary judicial agent of God in history. The mark of this presumed primary sovereignty is the lack of biblically revealed limits (boundaries) on the wealth that it is authorized by God to extract from those under its jurisdiction. This is the political doctrine of the divine right of the people—an assertion of the voters' God-granted moral authority to steal from each other by means of the ballot box. "Thou shalt not steal, except by majority vote."

The doctrine of equality before the law was one of the reasons why the West grew rich. This legal inheritance came from the Old Testament, not from democratic Athens or non-democratic Rome. Modern Christians have imbibed deeply on the socialist legacy of equality of results rather than equality before the civil law. The result has been the creation of enormous civil governments that are ruthless in their pursuit of money, power, and control. In the modern era, this began with the confiscation of church properties by Renaissance monarchs of the sixteenth century, most notably Henry VIII.[84] The Protestants supported this, and some of them participated in the distribution of the loot.

The use of civil government as an agency of political plunder has made thieves of us all. It is bad enough that we participate as recipients of stolen goods. It is worse that we call for more. Christian defenders of the welfare state never cease to call for more taxation, more confiscation, more *social justice*, by which they mean more government agents' guns in the bellies of everyone with wealth that exceeds the per capita wealth of the special interest voting bloc in whose name the activists generate the donations that support them in upper-middle-class comfort. Their worldview, when legislated and enforced, undermines the rule of law and thereby undermines economic growth, which alone can raise the poor out of their poverty.

84. Martin van Creveld, *The Rise and Decline of the State* (New York: Cambridge University Press, 1999), ch. 2.

15

LOCAL JUSTICE VS. CENTRALIZED GOVERNMENT

Ye shall do no unrighteousness in judgment: thou shalt not respect the person of the poor, nor honour the person of the mighty: but in righteousness shalt thou judge thy neighbour.

LEVITICUS 19:15

Leviticus 19:15 deals with more than just the principle of impartial civil justice.[1] It also deals with the locus of civil judicial sovereignty: "Ye shall do no unrighteousness in judgment: thou shalt not respect the person of the poor, nor honour the person of the mighty: but in righteousness shalt thou *judge thy neighbour*." This law established the requirement that the citizens of Israel from time to time be required to serve as civil judges in their communities. Jethro had told Moses: "Moreover thou shalt provide out of all the people able men, such as fear God, men of truth, hating covetousness; and place such over them, to be rulers of thousands, and rulers of hundreds, rulers of fifties, and rulers of tens: And let them judge the people at all seasons: and it shall be, that every great matter they shall bring unto thee, but every small matter they shall judge: so shall it be easier for thyself, and they shall bear the burden with thee" (Ex. 18:21–22).[2] The focus of Leviticus 19:15 is on civil courts within the local community, although the principle of equality before the law also applies to ecclesiastical courts. The verse specifically says, "in righteousness shalt thou judge thy neighbor." There is a very strong emphasis on *ethics*: righteousness. There is also a very strong emphasis on *localism* in this verse: judging a neighbor.

1. Chapter 14.

2. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 1, *Representation and Dominion* (1985), ch. 19.

Two issues are fundamental in this verse: equality before the law and judicial participation. First, *equality before the law*: this points back to Exodus 12:49, where the law of God is identified as the binding judicial standard for all civil judgment, irrespective of the national and covenantal origins of residents within the land.[3] Second, *local judicial participation*: the law is given to people in a particular community. Law enforcement is always to begin with *self-judgment*. The formal exercise of covenantal judgment then extends to local covenantal institutions: church, family, and state. This indicates that jurors and judges in the first stage of civil court proceedings must be recruited from the local community. Their attitudes will inescapably be shaped by that community. Acknowledging both the reality and the legitimacy of this institutional arrangement, Leviticus 19:15 emphasizes the necessity of righteousness. It is this fusion of *God's universal standards* with honest and impartial judgment according to *local customs and circumstances*—the one and the many—that is the basis of the development of the godly civil order.[4]

A. Judicial Localism

Thomas P. "Tip" O'Neill, who served as the Speaker of the United states House of Representatives in the 1980s,[5] once described the nature of American politics: "All politics is local." This undoubtedly reflects the bias of a member of the United States House of Representatives (435 members, each elected to represent a single geographical district), but his observation is correct regarding biblical civil government. In a political order that is structured in terms of biblical standards, politics is inherently local. The reason why this is true is that politics is an aspect of the civil judicial order. Politics is an aspect of civil judicial sanctions. It is the means by which those who are lawfully represented in the civil realm are given an opportunity periodically to sanction their judicial representatives: legislators, judges, and governors. This is the Bible's authorized means of allocating lawful civil authority. This is why all politics is inherently a form of the judiciary. *Politics is an outworking of the civil office of judge*.

In the area of civil justice, however, it is clear that the average citizen still possesses more authority on a jury than he does in any other

3. *Ibid.*, ch. 14.
4. Chapter 14.
5. This office is sometimes regarded by political analysts as the second most powerful in the United States after the Presidency.

civil office. Unless he holds elective office or is a judge, his office as juror is the most influential civil office that he will hold. The jury is the local institution that has the authority to declare a person innocent. Its judgment is final in the case of a declaration of innocence. So, judicial sovereignty is overwhelmingly local with respect to the declaration, "Not guilty."

Biblical politics is at bottom local because biblical courts are at bottom local. Judicial authority moves from the bottom to the top (local jurisdiction to the more distant center) in a biblical civil order (Ex. 18). *Biblical civil justice is exclusively negative*: bringing negative sanctions against those who initiate or commit acts that violate fundamental law and its appropriate legislation. An individual defies the legislation by committing a prohibited act. The biblical judicial model places primary responsibility for applying the law within the community in which the prohibited act took place, since the victim was injured while residing under the jurisdiction of a local court. The judicial process of bringing negative sanctions therefore must begin with an investigation of the facts of the case in a particular place and at a certain time. It is least expensive in most judicial conflicts to obtain accurate information about local events in the local jurisdiction. It is also least expensive to obtain accurate information about the local community's interpretation of the law in the local jurisdiction. The legal issue is *jurisdiction*: speaking (diction) the law (juris). Who possesses the initial right and responsibility for speaking the law in society and then enforcing it? The words of Exodus 18 are clear: local civil magistrates.

The preservation of freedom in Israel's civil order relied on local jurisdiction. Local tribal units helped to maintain this localism. There had to be permanent legal boundaries between each tribe. These boundaries protected Israel from political centralization. Political scientist Aaron Wildavsky wrote: "Moses' strategy was to divide the Israelites to keep them whole. Treating the people as a collective unit exposed them to collective punishment."[6] He gave the example of the Levites' slaying of 3,000 members of other tribes who had participated in the idolatry of the golden calf (Ex. 32:27–28)."If Moses had not shown that he would punish at least some of the people, the Lord, in whose eyes all were equally guilty, would have done them all

6. Aaron Wildavsky, *The Nursing Father: Moses as a Political Leader* (University, Alabama: University of Alabama, 1984), p. 112.

in. So Moses had to separate some to save others."[7] Wildavsky could also have offered the example of the tribe of Benjamin, whose rebellion led to the military destruction of almost the entire tribe by the other tribes (Jud. 20). Sin was contained. Israel's tribal boundaries served as restraints against the spread of covenantal rebellion. In this sense, tribal boundaries had a *primary defensive* judicial aspect: preserving the authority of local jurisdictions and outlooks.

These boundaries also had a *secondary expansive* judicial aspect. A local jurisdiction could begin to apply God's law in a new way, and this new application might prove beneficial to the local community. Localism leads to experimentation. A tribal unit could become a kind of judicial laboratory. The rest of the nation could see if God blessed this experiment. (This presumes that God did bring predictable, visible, positive corporate sanctions in history in response to corporate covenantal faithfulness.) At the discretion of the local community, the new judicial practices of another tribe could be imported. But the importing initiative was local, unless the nation's supreme civil authorities mandated the change in the name of God's law. If the nation's appeals court used the local guideline as a judicial standard, it would become a national standard.

Localism in Mosaic Israel was offset in part by the presence of Levites: local advisors who rarely had an inheritance in rural land.[8] Instead, they had income from the tithe (Num. 18:20–21)[9] and urban property (Lev. 25:32–34). They served as specialized judicial agents of God. The tribe of Levi was the only cross-boundary national tribe: the tribe that publicly spoke God's law. So, there was both localism and universalism, the many and the one, in the judicial structure of Mosaic Israel.

B. The Division of Judicial Labor

The organizational problem that Moses faced in applying God's revealed law to specific cases was that there were too many disputes to settle.

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7. *Idem*.

8. There were two exceptions: (1) land that had been vowed for use by a priest but then was leased by the vow-taker to someone else; (2) land that had been vowed for a priest which was then voluntarily forfeited by the heirs at the time of the jubilee (Lev. 27:20–21). Chapter 36.

9. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), ch. 10.

1. The Final Voice of Earthly Authority

Moses was God's only authorized voice of civil authority within the nation, as Korah and Dathan learned the hard way (Num. 16).[10] His word was the final earthly court of appeal in Israel. He therefore became the central civil judicial institution, which is another way of saying that he became the pinnacle.

> And it came to pass on the morrow, that Moses sat to judge the people: and the people stood by Moses from the morning unto the evening. And when Moses' father in law saw all that he did to the people, he said, What is this thing that thou doest to the people? why sittest thou thyself alone, and all the people stand by thee from morning unto even? And Moses said unto his father in law, Because the people come unto me to inquire of God: When they have a matter, they come unto me; and I judge between one and another, and I do make them know the is not statutes of God, and his laws. And Moses' father in law said unto him, The thing that thou doest good. Thou wilt surely wear away, both thou, and this people that is with thee: for this thing is too heavy for thee; thou art not able to perform it thyself alone (Ex. 18:13–18).

The problem was this: Moses, despite his ability to declare the most reliable civil judgments in the land (or in the world, for that matter), had become an impediment to obtaining widespread justice. The reliability and predictability of civil judgment in Israel was no better than the ability of the disputants to get to the front of the line. This allocation system for civil justice rewarded those who were willing and able to stand in line. But standing in line is expensive. It uses up the only truly irreplaceable economic resource: *time*. Jethro saw the problem and recommended a solution.

> Hearken now unto my voice, I will give thee counsel, and God shall be with thee: Be thou for the people to God-ward, that thou mayest bring the causes unto God: And thou shalt teach them ordinances and laws, and shalt shew them the way wherein they must walk, and the work that they must do. Moreover thou shalt provide out of all the people able men, such as fear God, men of truth, hating covetousness; and place such over them, to be rulers of thousands, and rulers of hundreds, rulers of fifties, and rulers of tens: And let them judge the people at all seasons: and it shall be, that every great matter they shall bring unto thee, but every small matter they shall judge: so shall it be easier for thyself, and they shall bear the burden with thee. If thou shalt do this thing, and God command thee so, then thou shalt be able to endure, and all this people shall also go to their place in peace. So Moses hearkened to the voice of his father in law, and did all

10. *Ibid.*, ch. 9.

> that he had said. And Moses chose able men out of all Israel, and made them heads over the people, rulers of thousands, rulers of hundreds, rulers of fifties, and rulers of tens. And they judged the people at all seasons: the hard causes they brought unto Moses, but every small matter they judged themselves (Ex. 18:19–26).

This solution was based on the economic principle of the division of labor. It necessarily relied on the judicial principle of localism. The authority to impose civil and ecclesiastical sanctions *moved upward judicially* (i.e., *inward geographically*, toward the tabernacle, and later, once they were in the Promised Land, toward Jerusalem) from the local jurisdiction to a more distant jurisdiction.[11] This means that the broadest judicial authority in Israel was local. This was where the resident of Israel first encountered God's civil law. Jethro reserved the judicial system's scarcest economic resources—those people who possess progressively better-informed judgment—for the progressively more difficult cases.

Judicial resources, being scarce, had to be allocated by means of some principle. This was not the free market principle of "highest bid wins." Civil and ecclesiastical justice may not lawfully be purchased. But without price allocation, there was only one other alternative means of rationing civil justice: standing in line. Jethro's system transformed the single long line in front of Moses' tent into tens of thousands of shorter lines. Rashi,[12] the late eleventh-century French rabbinic commentator, estimated that in Moses' day, there would have been 78,600 judges in four levels.[13]

2. The Intellectual Division of Labor

Localism is extremely important for the advancement of what I call the division of judicial labor. The concept of the division of labor

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11. The "inner circle" of influence or power is therefore at the top of the organizational pyramid, if not formally, then at least informally. See Gary North, *Hierarchy and Dominion: An Economic Commentary on First Timothy*, 2nd ed. (Dallas, Georgia: Point Five Covenant, [2002] 2012), Introduction.

12. Rabbi Solomon (Shlomo) Yizchaki.

13. His reasoning: 600 at the top—judges of thousands (600,000 men divided by 1,000); 6,000 in the upper middle—judges of hundreds (600,000 men divided by 100); 12,000 in the lower middle—judges of fifties (600,000 men divided by 50); and 60,000 lower court judges—judges of tens (600,000 men divided by 10). *Chumash with Targum Onkelos, Haphtaroth and Rashi's Commentary*, A. M. Silbermann and M. Rosenbaum, translators, 5 vols. (Jerusalem: Silbermann Family, [1934] 1985 [Jewish year: 5745]), II, p. 95. Rashi served as a rabbinic judge, and difficult cases were continually sent to him from Germany and France. Heinrich Graetz, *History of the Jews*, 5 vols. (Philadelphia: Jewish Publication Society of America, [1894] 1945), III, p. 287.

is basic to the Bible. We see it in a primarily negative sense in the scattering of families at the Tower of Babel.[14] We see it in a positive sense in Paul's injunction that the simple man or the man of one primary skill not feel bad because he does not possess a skill that a more prestigious individual has. In both I Corinthians 12[15] and Romans 12,[16] Paul was speaking of the church as a body. No individual member of the body should feel that he is less important than any other member of the body. The body is governed by its head, Jesus Christ. Therefore, for as long as the entire body is honoring its head, no member of the body should feel as though he is less important than any other (I Cor. 12:4–27).

The idea of scarcity is the most fundamental idea of modern economics: "There is no such thing as a free lunch." Scarcity is defined as follows: at zero price, there is greater demand for a scarce resource than there is supply. Modern economics asks the question: How can men reduce the level of scarcity? This is the question of wealth or economic development. Modern economics began with the observation that the division of labor is society's most important means of reducing scarcity. We date the advent of modern economics with the publication of Adam Smith's *Wealth of Nations* in 1776. Smith began Book I, Chapter I, which is titled "Of the Division of Labour," with these words: "The greatest improvement in the productive powers of labour, and the greater part of the skill, dexterity, and judgment with which it is anywhere directed, or applied, seem to have been the effects of the division of labour." His statement refers to the productivity of labor, but it applies to every area of human endeavor in which cooperative service is beneficial. He was saying that there is a greater output of goods and services for any single input of labor resource when individuals cooperate voluntarily in a division of labor economy.

The application of a biblical truth—the division of labor within the institutional church—is not limited to the church or to economics. It also has important ramifications for politics, social institutions, and all other aspects of life in which men and women cooperate for personal gain, and whose cooperative efforts lead to greater social ben-

14. Not entirely a negative sanction. See my comments in *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, [1982] 2012), ch. 19.

15. Gary North, *Judgment and Dominion: An Economic Commentary on First Corinthians*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 15.

16. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 10.

efits. The principle is this: through cooperation, the *specialized knowledge* of individuals can be applied more effectively to those areas of life in which this knowledge is most appropriate. Thus, it is possible for individuals to achieve greater output because their unique skills and unique knowledge are most effectively applied to the specific and narrow tasks at hand. This means that through the division of labor, there is a greater output of socially valuable wisdom from a given input of individual knowledge. It is the free market economic order alone that permits the widespread co-ordination of individual plans.[17] By bringing together many minds to deal with particular problems, society gains the benefit of obtaining greater wisdom at any given expenditure—in this context, judicial cases. It also means that there will be a greater number of cases settled by courts when this division of labor is operating. Many courts and many cases mean greater justice within the community (Ex. 18).

3. Committees and Representation

A committee is a means of pooling knowledge: division of intellectual labor. The ultimate committee—the Trinity—is an *economical* Trinity as well as an ontological Trinity. There is a hierarchy of tasks and responsibilities despite the three Persons' equality of Being. It is not sufficient to say that the three Persons of the Trinity are equal in substance and glory (the ontological Trinity). We must also distinguish their interrelationships and their specific tasks (the economical Trinity). The Holy Spirit is sent by both the Father (John 14:26) and the Son (John 16:7). The Spirit goes where He is sent. There is no escape from hierarchy, not even in the Trinity. But this subordination is functional and relational, not in terms of God's being or substance.[18] God is the ultimate committee: unified yet plural. There is a division of labor within the Godhead.

Human committees do not possess omniscience or perfect unity. There are institutional limits on men's division of intellectual labor. We see this most notably in the operations of committees. After leaving a committee meeting, Nobel Prize-winning economist George

17. Friedrich A. Hayek, *Individualism and Economic Order* (Chicago: University of Chicago Press, 1948), chaps. 2, 4. Cf. Gerald P. O'Driscoll, Jr., *Economics as a Coordination Problem: The Contributions of Friederich A. Hayek* (Kansas City, Kansas: Sheed Andrews and McMeel, 1977).

18. Augustine, *On the Trinity* (A.D. 400), Bk. V; in Philip Schaff (ed.), *A Select Library of the Nicene and Post-Nicene Fathers*, vol. 3 (Grand Rapids, Michigan: Eerdmans, [1887] 1978).

Stigler remarked that Charles Lindburgh's 1927 feat of flying across the Atlantic alone from New York to Paris seems less impressive when we consider the difficulty he would have faced had he made the same flight under the direction of a committee.[19] There is a familiar saying: "A camel is a horse designed by a committee." This saying recognizes a fundamental problem with committees: they are seldom creative, despite the division of intellectual labor.

Why is this the case? Because of the difficulty of establishing individual responsibility and therefore of applying appropriate sanctions, either positive or negative. It becomes more expensive to monitor individual performance and reward it appropriately as the size of any organization increases.[20] A committee's productivity stems primarily from its collective knowledge in judging plans submitted by responsible individuals. A committee pools individual judgments. A committee is far better able to determine why something has not worked properly in the past than what will work best in the future. It is an institution far more suitable for imposing negative sanctions against the managers of poorly functioning operations than for producing original institutional designs leading to productive future operations.[21] In short, *a committee is most productive when it delegates authority to a representative*. It then brings either positive or negative sanctions against its representative in terms of specific performance criteria.

A committee sets general policy. More to the point, it elects a representative agent who devises and then proposes general policy. He submits his plan to the committee, which then accepts, modifies, or rejects the plan of action or policy. Having set (approved) general policy, a committee retains a veto over decisions made by its representative agent. A committee that attempts to do more than veto decisions made by innovators will strangle the host organization. A

19. Cited by Thomas Sowell, *Knowledge and Decisions* (New York: Basic Books, 1980), p. 24. The remark is sometimes attributed to Charles F. Kettering, the inventive genius at General Motors in the 1920s. When informed that Lindburgh had flown the Atlantic alone, he supposedly replied: "Let me know when a committee does it." Kettering was an extreme individualist who did not fit into Alfred Sloan's brilliantly conceived organizational structure. His enormous productivity bought him independence from Sloan's task-based system of management. Peter F. Drucker, *Management: Tasks, Responsibilities, Practices* (New York: Harper & Row, 1974), p. 411.

20. Sowell, *ibid*., p. 56.

21. The creativity of the United States Constitutional Convention of 1787 was unique. It was closed to the public, and its attendees were oath-bound not to discuss its deliberations during their lifetimes, which none of them did, including the antiFederalists who had attended. Far more representative of the productivity of political committees were the results of the various constitutional conventions of France, 1789–92.

committee loses efficiency when it seeks to impose its general policies at the local level. We readily understand this in the case of military operations: one person is in command over his troops, but he answers to a senior officer, all the way up to the Joint Chiefs of Staff or its equivalent. We also understand that the greater the distance from the central command, the greater the local commander's knowledge of the battlefield. The military command's problem is to fuse the one and the many: the overall plan of battle with battlefield tactics.[22] We could call this *military casuistry*: local application of the general's laws.

The organizational problem that a human committee faces is the task of establishing *clear-cut boundaries of individual authority and responsibility*. Each division must possess its own appropriate tasks, regulations, and sanctions, both positive and negative. As economist Thomas Sowell writes, "the most basic decision is *who* makes the decision, under what constraints, and subject to what feedback mechanisms."[23] The success of any committee is almost always a direct result of the committee's ability to assign institutional responsibilities: *representative* authority. The committee's decisions therefore tend to become the decisions of the committee chairman, subject to a veto by the committee. The alternative is impersonal decision-making by less easily identified individuals who are more interested in escaping individual responsibility than in creating positive programs in the name of the committee.

4. The Worldwide Extension of God's Law

Adam Smith made an extremely important observation in Chapter 3 of the *Wealth of Nations*. Chapter 3 is titled, "That the Division of Labour is Limited by the Extent of the Market." This statement is one of the most important insights in the history of economic analysis. It presents the case for a wide market in which individuals offer for sale the output of their labor: goods and services. The wider the market, the greater the specialization of production and therefore the greater the output per unit of input. Per capita wealth increases.

The same principle applies to the market for civil justice. The division of judicial labor is also limited by the extent of the market. This leads to three very important implications. *First*, the law of God was

22. The development of a small, unpiloted drone plane equipped with a television camera, a technology deployed first in the 1982 Israeli war in Lebanon, in a war primarily fought between Syrian and Israeli tanks, was a milestone. Central headquarters could see the entire battlefield on screen.

23. Sowell, *Knowledge and Decisions*, p. 17.

always intended to extend beyond the geographical boundaries of ancient Israel, i.e., *geographical extension*. The goal was always to obtain greater knowledge of God's principles of civil justice, so that all men would be able to better understand those principles as applied in specific situations. This is why Jonah's missionary venture into Assyria was an important aspect of achieving greater justice within national Israel. The idea behind missionary ventures is to bring more and more people under the authority of God's law, and therefore to gain greater and greater wisdom about the legitimate and necessary applications of God's law to concrete situations in history. Christendom in this way brings more and better minds to bear on the specific cases in the courts, not just nationally, but internationally.

Second, biblical law still applies in the New Testament era. Not only was God's revealed law always intended to spread geographically across the face of the earth, it was also expected to extend chronologically throughout history. This *chronological extension* means that judicial precedents set by courts over long periods of time are supposed to accumulate. We are supposed to gain ever-accumulating wisdom about the applicability of God's law to specific disputes in history by means of our knowledge of these precedents. This is the judicial application of the biblical principle of *progressive sanctification*. A definitively revealed legal structure is to be applied with ever-increasing precision in men's judicial decisions in history.

We see this development clearly in the history of rabbinic law, specifically with respect to that body of law called the Responsa.[24] In the state of Israel today, something in the range of 300,000 decisions[25] by earlier Jewish courts have been entered into computers.[26] These precedents have come as a result of some 1,500 years of decisions. They are regarded as legal precedents in the state of Israel. This is a tremendous advantage that the Jews have, compared to the Christians. They have a larger and older body of judicial precedents, and this body of law is focused by means of an agreed-upon set of principles of judicial interpretation.[27] In short, there is a far greater division of intellectual labor in rabbinic law than in any other legal system in the world.

24. Irving A. Agus, *Urban-Civilization in Pre-Crusade Europe*, 2 vols. (New York: Yeshiva University Press, 1965), is a study of these cases in the medieval period.

25. Introduction, *The Principles of Jewish Law*, ed. Menachem Elon (Jerusalem: Keter, [1975?]), col. 13.

26. "Computer Digests the Talmud to Help Rabbis," *New York Times* (Nov. 24, 1984).

27. This inheritance broke down in the twentieth century, as Reform Judaism and even Conservative Judaism departed from Talmudic law.

Third, this principle of the judicial division of labor implies that Christendom as an ideal is binding in New Testament times. The rule of God is supposed to be acknowledged by men as universally binding. A self-conscious application of God's universally binding law in history is to be extended in every area of life. This is the meaning of the concept of Christendom: a universal civilization based on a single, definitive legal order, but applied locally, regionally, nationally, and internationally in a series of hierarchical civil courts.[28] This common law-order is the judicial equivalent of a common language with regional accents. Without a common grammar and common vocabulary, there can be little communication across linguistic barriers.[29] Biblical law is the "common grammar" that God has given His church in order to bring cultural unity: Christendom. Historically, the philosophers of the church have appealed to natural law concepts, either Greek or Newtonian, in their quest for a common judicial order and therefore common civilization. This has been an importation of an alien judicial grammar, one which is at bottom cacophonous. The presence of similar words—the "vocabulary" of justice—has masked the existence of rival "grammatical" structures: covenant-keeping vs. covenant-breaking. Van Til wrote:

> *As part of the saving plan of God* the law was *absolutely other* than the code of Hammurabi or any other law that expressed "tribal experience" up to that time. We will not seek to debate about the similarities and dissimilarities between the law that Moses gave and the laws of other nations. We expect a great deal of similarity. We could hold again that even if there had been existing somewhere a code identical in form to the code of Moses, the two would still have been entirely different as to their meaning and interpretation. As a matter of fact, there is no law formulated among the nations outside the pale of Israel that demands absolute obedience of man, just as there is nowhere a story that tells man simply that he is the creature of God and wholly responsible to God. Thus the absolute otherness of Moses and Christ's interpretation of the past and of the present can only be cast aside by those who are bound to do so by virtue of their adherence to a metaphysical relativism.[30]

28. Gary North, *Healer of the Nations: Biblical Blueprints for International Relations* (Ft. Worth, Texas: Dominion Press, 1987), ch. 3.

29. The sign language of the plains Indians of North America was such a cross-boundary social institution. Members of widely dispersed tribes could communicate with each other by means of the limited grammar and vocabulary of hand signs. This language was still in use in the early twentieth century. The United States Army's master sign linguist in the World War I era was Col. Tim McCoy, who in the 1930s went to Hollywood and became a "star" in B-grade Westerns.

30. Cornelius Van Til, *Psychology of Religion*, vol. IV of *In Defense of the Faith* (Phillips-

C. Judges and Jurors

Localism is the foundation of the biblical judicial system. The primary authority to declare judgment under biblical law is the local court. *The fundamental agency of corporate judgment is the local court, whether civil or ecclesiastical*. This is an extremely important principle for any system of law designed to resist the centralization of power.

The civil judge in the Mosaic Covenant declared the sentence: negative sanctions. Capital sanctions were carried out by the people, beginning with the witnesses (Deut. 17:6). Case by case, the civil court was to declare judgment. As the cases grew more difficult, they would work their way up the appeals court system.

1. The King

The most difficult civil cases ended up in Jerusalem in the king's courtroom. The king was the Supreme Court of the Israelite civil order. This is why he was commanded to read the law daily (Deut. 17:18–19).[31] Yet even the king could not lawfully declare absolutely final earthly judgment, imposing final earthly sanctions, for there is no final, *institutionalized*, earthly court of appeal in a biblical civil order. Only one person can lawfully declare the final judicial word of the Lord: Jesus Christ. Therefore, the people as a whole could lawfully intervene to restrain the king, as they did when Saul attempted to carry out his judgment against his son Jonathan (I Sam. 14:45). The people placed a judicial boundary around the king, and they were willing to place a physical boundary around him. He relented. On what basis could they overturn the king's sentence? Only as *authorized jurors* who refused to convict Jonathan because the king's verbal legislation on the battlefield had been foolish and therefore unconstitutional. Their declaration of "not guilty" was final, and Saul accepted it.

Nevertheless, the king did lawfully serve as the highest civil judge in Israel. This was the great authority of kingship: exercising the power of speaking in God's name as the single individual who could declare God's final earthly judgment, unless the people lawfully revolted under the direction of the lower magistrates.[32] David's rebellious son Absalom began his revolt by serving as a lower judge in the gates (II Sam. 15:2–6). But his was a messianic impulse: "Absalom

burg, New Jersey: Presbyterian & Reformed, 1971), p. 149.

31. Gary North, *Inheritance and Dominion: An Economic Commentary on Deuteronomy*, 2nd ed. (Dallas, Georgia: Point Five Press, [1999] 2012), ch. 42:G.

32. See John Calvin, *Institutes of the Christian Religion*, IV:xx:31.

said moreover, Oh that I were made judge in the land, that every man which hath any suit or cause might come unto me, and I would do him justice!" (II Sam. 15:4). He promised justice to all.

To restrain this messianic impulse, the king was not allowed by God to multiply horses (offensive weapons), wives (alliances), or precious metals (Deut. 17:16–17). He was required to study biblical law daily (Deut. 17:18–19). He had to be placed under judicial and institutional restraints in order to restrict the development of a messianic impulse based on concentrated civil authority.[33] *Legitimate authority was not to become illegitimate power*. It is this move from multiple authorities to a single authority—from legitimate, decentralized social authority to centralized state power—that is the essence of the move from freedom to totalitarianism.[34] Biblical law places boundaries around centralized political authority in order to prevent this development.

> When thou art come unto the land which the LORD thy God giveth thee, and shalt possess it, and shalt dwell therein, and shalt say, I will set a king over me, like as all the nations that are about me; Thou shalt in any wise set him king over thee, whom the LORD thy God shall choose: one from among thy brethren shalt thou set king over thee: thou mayest not set a stranger over thee, which is not thy brother. But he shall not multiply horses to himself, nor cause the people to return to Egypt, to the end that he should multiply horses: forasmuch as the LORD hath said unto you, Ye shall henceforth return no more that way. Neither shall he multiply wives to himself, that his heart turn not away: neither shall he greatly multiply to himself silver and gold. And it shall be, when he sitteth upon the throne of his kingdom, that he shall write him a copy of this law in a book out of that which is before the priests the Levites: And it shall be with him, and he shall read therein all the days of his life: that he may learn to fear the LORD his God, to keep all the words of this law and these statutes, to do them: That his heart be not lifted up above his brethren, and that he turn not aside from the commandment, to the right hand, or to the left: to the end that he may prolong his days in his kingdom, he, and his children, in the midst of Israel (Deut. 17:14–20).

2. The Civil Priests

What, then, was the basis of a judge's authority? We can answer this best by asking: "Biblically, who declared the law in ancient Israel?" The priests did. Yet this office was not limited to ecclesiastical affairs.

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33. North, *Inheritance and Dominion*, ch. 41.

34. Robert A. Nisbet, *The Quest for Community* (New York: Oxford University Press, 1953), ch. 5.

Israel was a kingdom of priests. "And ye shall be unto me a kingdom of priests, and an holy nation. These are the words which thou shalt speak unto the children of Israel" (Ex. 19:6). This was an office held by all adult circumcised males (age 20+)[35] and all adult women under the authority of a circumcised male.[36]

There were both civil and ecclesiastical priests. The elders in the gates in ancient Israel were empowered by God to make the civil judicial system function. The elders in the gates imposed the negative sanctions of God's civil law. The priests were advisors to the elders.

> If there arise a matter too hard for thee in judgment, between blood and blood, between plea and plea, and between stroke and stroke, being matters of controversy within thy gates: then shalt thou arise, and get thee up into the place which the LORD thy God shall choose; And thou shalt come unto the priests the Levites, and unto the judge that shall be in those days, and inquire; and they shall show thee the sentence of judgment: And thou shalt do according to the sentence, which they of that place which the LORD shall choose shall shew thee; and thou shalt observe to do according to all that they inform thee: According to the sentence of the law which they shall teach thee, and according to the judgment which they shall tell thee, thou shalt do: thou shalt not decline from the sentence which they shall shew thee, to the right hand, nor to the left. And the man that will do presumptuously, and will not hearken unto the priest that standeth to minister there before the LORD thy God, or unto the judge, even that man shall die: and thou shalt put away the evil from Israel. And all the people shall hear, and fear, and do no more presumptuously (Deut. 17:8–13).

The point is, *civil rulership was plural because priestly rulership was plural*. This has not changed. Who are the civil priests—citizens who exercise lawful civil sanctions—in New Testament times? Biblically speaking, in a formally covenanted nation—which all nations are required by God to become[37]—only those adults who are church members and are therefore under church authority.[38]

3. The Jury

The fundamental agency of the local court—both civil and ecclesiastical—is the jury. It is the jury that announces guilt or innocence after having heard the arguments of conflicting parties in the

35. Exodus 30:14.

36. The best example is Deborah (Jud. 4).

37. Gary DeMar, *Ruler of the Nations: Biblical Blueprints for Government* (Ft. Worth, Texas: Dominion Press, 1987), ch. 4.

38. Gary North, *Political Polytheism: The Myth of Pluralism* (Tyler, Texas: Institute for Christian Economics, 1989), ch. 2.

courtroom. Its members evaluate the cogency of the arguments and the "fit" between the law and the evidence. The jury places limits on the judge's authority to decide the case. This is especially true in the United States. Legal historian Lawrence M. Friedman wrote: "The modern European law of evidence is fairly simple and rational; the law lets most everything in and trusts the judge to separate good evidence from bad. But American law distrusts the judge; it gives the jury full fact-finding power, and in criminal cases, the final word on innocence or guilt. Yet the law has distrusted the jury almost as much as it has distrusted the judge, and the rules of evidence grew up as a countervailing force. The jury hears only part of the story; that part which the law of evidence allows. The judge is bound too. If he lets in improper evidence, the case may be reversed on appeal. Hence the rules control both judge and jury."[39]

In modern American law, the formal presentation of the evidence is under the direction of the judge, and this authority has been used increasingly to restrict the jury's access to evidence. The familiar words of the lawyer, "Objection, your honor," is the heart of this control. The judge can sustain or overrule the lawyer's request to withhold evidence in the court. This seemingly arbitrary power was not always the case, but it has become such since the early 1800s through the development of rules of evidence and courtroom order.[40] The judges have done their best to extend their authority over all aspects of courtroom procedure. The jury system is the last major resistance point.

The jury system is a necessary outworking of a biblical legal order. It did not appear overnight in the early church, even as slavery was not condemned overnight. But it had to develop in a Christian legal order, even as slavery had to be abolished.[41] *The jury's legal basis is the priesthood of all believers*.[42] The jury is a Christian institution. This is not to say that it is exclusively a Christian institution. Ancient Athens and Rome both had trial by jury.

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39. Lawrence M. Friedman, *A History of American Law* (New York: Simon & Schuster, 1973), p. 135.

40. Friedman wrote: "There is good reason to believe that the law of evidence tightened considerably between 1776 and the 1830s. Judging from surviving transcripts of criminal trials, courts had rather loose attitudes toward evidence around 1800. . . . Opposing counsel did not meekly wait their turn to cross-examine. Rather, they broke in with questions whenever they wished." *Ibid.*, pp. 134–35.

41. Gary North, *Tools of Dominion: The Case Laws of Exodus* (Tyler, Texas: Institute for Christian Economics, 1990), ch. 4.

42. James B. Jordan, *The Law of the Covenant: An Exposition of Exodus 21–23* (Tyler, Texas: Institute for Christian Economics, 1984), p. 232.

4. Popular Sovereignty in Athenian Democracy

Athens' judicial system was inaugurated by Solon in the sixth century, B.C. Aristotle said that, by this act, Solon introduced the principle of democracy into Athens. His successors attempted to flatter the people by expanding the power of the courts, and thereby "transformed the constitution into its present form of extreme democracy."[43] Originally, Aristotle speculated, Solon had not intended to transfer this much power to the people. "He gave them simply the rights of electing the magistrates and calling them to account; and if the people do not enjoy these elementary rights, they must be a people of slaves, and thus enemies to the government."[44] Aristotle implied that Solon understood the connection between the jury, the election of magistrates, the ability to call them to account, and political freedom. The covenantal issue is the same in all cases: *sanctions*.

The Athenian judicial system failed because of its doctrine of popular sovereignty. By the mid-fifth century, Athens relied on huge courts (*dikasteria*) with hundreds of juror-judges: 201, 301, 401, or 501 per court. Each court heard hundreds of cases per year, with each case taking no more than one day to decide.[45] Based as they were on the theology of the omnipotence of the people, the jurors were subject to very few laws or restrictions. Glotz, an admirer of the system, summarized it: "Armed with an arbitrary power the people, the sovereign justiciary, admitted of no restriction either upon its severity or upon its mercy; but it placed its omnipotence more often at the service of its constant humanity than of its sudden and short-lived passions. Above all it freed itself from the tyranny of forms and fixed rules in order that individual rights might prevail and equity be discovered."[46] Glotz praised the Athenian judicial system, for it did not remain "superstitiously attached to ancient customs and ancient laws. . . ."[47] This was jury-made law, not the enforcement of predictable laws. As with

43. Aristotle, *Politics*, 1274a. *The Politics of Aristotle*, trans. Sir Ernest Barker (New York: Oxford University Press, [1946] 1958), p. 88. Cf. John P. Dawson, *The History of Lay Judges* (Cambridge, Massachusetts: Harvard University Press, 1960), p. 13. Cited by Daniel C. Murphy, "The Effect of Recent Developments Upon the Political Function of Trial by Jury," M.A. Thesis, University of Virginia, 1981, p. 5.

44. *Politics*, 1274a; *ibid.*, p. 89.

45. Gustave Glotz, *The Greek City and Its Institutions* (New York: Barnes & Noble, [1929] 1969), p. 246.

46. *Ibid.*, p. 256. The jurors had to swear in advance not to cancel any private debts, redistribute lands and houses of Athenians. They also swore not to readmit anyone sent into exile, vote for a tyrant or an oligarch, or accept a bribe. *Ibid.*, p. 239.

47. *Ibid.*, p. 255.

any system of final earthly authority, when one institution achieves monopolistic power, it abuses this power.

This faith in the sovereignty of the autonomous Athenian people was parallelled by the rise of the Athenian empire and continual warfare.[48] Within a century, the Athenians were downplaying marriage as a mere convention and had adopted infanticide.[49] These views were widely shared throughout Greece; the region began to suffer depopulation.[50] Alexander the Great's conquests destroyed the ideal of the *polis*, the autonomous city-state. The ideal of the sovereignty of the people died in the classical world where it began. This took only two and a half centuries: from the mid-sixth to the late fourth. The glory that was Greece was short-lived.

5. The Biblical Jury

The goal of the biblical jury system is not to create new laws but rather to apply fixed biblical laws to specific cases. The function of the jury is to bring a small number of individuals into court so they can hear the disputes between individuals who have not been able to settle their disputes outside of the civil court. This is the principle of the division of labor. Many minds are focused on the details of a single case. After hearing both sides, the American jury is sequestered into a private room where members can discuss the case secure from interference or the threat of subsequent retaliation against any individual jury member. Neither the judge nor the agents of the disputants are allowed to enter this room when the jury is in session. This is a sign of its sovereignty. When the common law rule against double jeopardy is honored, the American jury becomes the final court of appeal when it issues a "not guilty" verdict.

The jury publicly announces civil judgment: guilty or innocent. This is the same judicial principle that operates in democratic balloting. It is a manifestation of point four of the biblical covenant model: the imposition of sanctions. The Anglo-American institution of the secret jury rests on the legal principle that no outside agent is authorized to bring pressure of any kind against the decision-makers who sit on that jury. No kind of public pressure, no kind of economic pres-

48. *Ibid.*, p. 263. Aristotle wrote: "The people, who had been the cause of the acquisition of a maritime empire during the course of the Persian wars, acquired a conceit of themselves; and in spite of the opposition of the better citizens they found worthless demagogues to support their cause." *Politics*, 1274a.

49. *Ibid.*, pp. 296–98.

50. *Ibid.*, pp. 299–301.

sure, and no kind of threat is legal to be brought against a jury. Tampering with a jury is a criminal offense. By sequestering the jury—by placing a judicial and physical boundary around the members in their collective capacity as jurors—the judge pressures the members of the jury to focus all of their attention on the details of the particular case, rather than worrying about what their opinions or decisions will produce in response within the community.

This is indirect evidence that the modern political practice of the secret ballot is analogous to the sequestered jury.[51] When individual citizens bring formal political sanctions against their rulers in a democracy, they are to be left free from subsequent retaliation by politicians. The secret jury and the secret ballot are both basic to the preservation of the institutional independence of the sanctioning agents, and therefore to the preservation of the impartiality of the decision.

D. Double Jeopardy

Another fundamental principle of biblical civil order is that when the jury declares an individual "not guilty," this individual may not lawfully be tried by any other jury for the same offense. This is known in western jurisprudence as the prohibition against double jeopardy. The jury's decision is final whenever it declares an individual not guilty. This is analogous judicially to God's definitive declaration of an individual as being not guilty. When that declaration is made, no one can ever lawfully bring the same charge against the individual whom God has declared not guilty. "For I am persuaded, that neither death, nor life, nor angels, nor principalities, nor powers, nor things present, nor things to come, Nor height, nor depth, nor any other creature, shall be able to separate us from the love of God, which is in Christ Jesus our Lord" (Rom. 8:38–39).

1. The Innocence of Jesus

Obviously, the definitive example that we have in all of history is God's declaration of Jesus Christ's innocence, declared publicly by means of the resurrection. When God declared Jesus Christ "not

51. The practice first began in Great Britain in 1662, when the Scottish Parliament voted secretly (in disguised hand) on the Billeting Act. This act was repudiated by Charles II. The Secret ballot was not used again by the Scottish Parliament until 1705. In the United States, the use of the secret ballot was introduced in the New England colonies, and in Pennsylvania, Delaware, and the two Carolinas at the time of the American Revolution, beginning in 1775. See "Ballot," *Encyclopedia Britannica*, 11th edition (New York: Encyclopedia Britannica, Inc., 1910), III, pp. 279–81.

guilty" and raised Him from the dead, this testified to all mankind that no judicially valid accusation could ever be brought again against Jesus Christ. The same is true of all people whom God has declared not guilty. Unlike his power in the Old Covenant era (Job 1:6–12), Satan can no longer bring formal accusations in heaven against those to whom God has transferred Jesus Christ's judicial innocence. "And the great dragon was cast out, that old serpent, called the Devil, and Satan, which deceiveth the whole world: he was cast out into the earth, and his angels were cast out with him. And I heard a loud voice saying in heaven, Now is come salvation, and strength, and the kingdom of our God, and the power of his Christ: for the accuser of our brethren is cast down, which accused them before our God day and night" (Rev. 12:9–10).

Yet this protection from a second trial works both ways. The condemned person is only required to pay once: either economic restitution to the victim or final earthly restitution to God directly (execution). He is not to be brought before the court for the same crime, once he has made restitution. This principle is grounded in the judicial principle of the substitutionary atonement. Bahnsen wrote:

> It is uniformly recognized that Scripture prohibits a double infliction of punishment (e.g., the substitutionary atonement of Christ rests on this cardinal point with respect to eternal judgment). Therefore, double trial (i.e., double jeopardy) is ruled out; a man once tried and sentenced is not to be subjected to further trial for the same offense. Otherwise the biblical restriction of forty stripes (Deut. 25:3) would be senseless; through retrial for the same crime a man could *repeatedly* be given sets of forty stripes. Thus double trial is forbidden. Now, if this protection is extended even to the guilty, to those convicted of offense, *how much more* should the protection be afforded to those who are acquitted as innocent? To grant this security to the convicted and withhold it from the innocent would indirectly constitute showing respect unto the wicked and a double standard of treatment (cf. Deut. 25:13–16). Therefore, to violate the prohibition of double jeopardy is to run counter to underlying principles of biblical justice.[52]

He cited II Samuel 14:4–11, where David was tricked by Joab (vv. 2–3) into granting protection from further legal action to a man (mythical) who had supposedly slain his brother in a fight. David's honoring of the principle of double jeopardy was the judicial basis of his decision.

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52. Greg L. Bahnsen, "Double Jeopardy: A Case Study in the Influence of Christian Legislation," *Journal of Christian Reconstruction*, II (Winter, 1975–76), pp. 44–45.

The principle of protection against double jeopardy is to bring a solution in history to a formal dispute that could not be otherwise solved. The accused, brought before the court and then declared not guilty by the jury, knows that he will not have to worry in the future about defending himself against that particular accusation. Because the jury's declaration of innocence is final, it leads to a reduced number of appeals to higher courts. Only those cases in which a jury has declared an individual guilty do we see a stream of appeals to higher courts.

This protection against double jeopardy does not apply to church courts. First, church membership is voluntary. Second, court costs are minimal. Third, and most important, unlike American civil government, local church government is not divided into judicial, legislative, and executive branches. A church court is unitary. There must be a way to overturn the decisions of such a unitary local power. A local congregation's declaration of "not guilty" can be overturned by a higher court. If this were not true, no liberal clergyman could be removed from office when declared innocent by his liberal congregation, presbytery, or synod. The protection of biblical preaching and the sacraments is more important than the preservation of double jeopardy protection.

2. Justice and Scarcity

If this protection were not available, then agents of the state, funded by compulsory taxation, could bring the same accusation against someone until a jury would convict. This would bankrupt the accused. The negative sanction of bankruptcy would replace the negative sanction of a declared penalty.[53] The jury system places a legal boundary around the state. The state cannot lawfully bring further economic sanctions against a person who has been declared innocent by a jury of his peers.

We live in a world of limited resources. We have only so much time, so much money, and so many lawyers to defend us. By making the jury's declaration of "not guilty" a final declaration, we announce that we cannot spend unlimited resources to convict an individual. This acknowledges that we must live with *imperfect* justice.[54] It ac-

53. When a grand jury decides to indict someone, it is in effect declaring him guilty. It will cost him a small fortune to defend himself. Only if the prosecuting agency of civil government were compelled by law to reimburse him for his expenses if he is subsequently declared innocent, including the value of his lost time, would the present legal order be just.

54. Macklin Fleming, *The Price of Perfect Justice: The Adverse Consequences of Current*

knowledges that we must live with *cheaper* justice. Finally, it acknowledges that one of our goals is *swift* justice. We can get these cases settled, though not perfectly. This also means that a local jury's power of the veto in civil justice always remains at the local level. This is recognized in Anglo-American civil jurisprudence. No court, no king, no civil magistrate can overcome this veto under common law.[55] This makes the jury the most important single Anglo-American civil institution for the preservation of liberty against unwarranted extensions of power by a central government.

By placing fundamental power in the hands of local juries and local courts, biblical law increases the likelihood that the principles of the law will be best known and best applied at the local level, where they will be applied first. It also means that local citizens have a great responsibility to understand and master the application of biblical legal principles to historical circumstances. *The local citizen who applies the universal principles of biblical law to his local circumstances is the linchpin of the whole biblical justice system*.

The presence of judicially well-informed local jurors leads to a greater predictability of the outcome of disputes. It also leads to greater self-government as a necessary consequence of this law. It means that these individuals in a local community will have much greater knowledge—accurate knowledge—of how a particular court case will result. What it means is that individuals who are unwilling to settle their disputes out of court, because of their lack of knowledge of the likely decision of that court, will be pressured to settle their disputes before coming into the court if each of them is fairly confident that he knows what that outcome will be. The individual who suspects that the outcome will be against him has a much greater incentive to settle the dispute out of court for that reason. Again, this reduces the case load in the court, and it also reduces the cost of achieving justice in the community.

We have seen that the civil jury is a fundamental agency—perhaps

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Legal Doctrine on the American Courtroom (New York: Basic Books, 1974).

55. Anglo-American admiralty law is different. The British in the eighteenth century used admiralty law in their attempt to avoid local colonial juries that refused to convict smugglers—a problem that the central government had encountered as early as the reign of Henry VIII. Charles M. Andrews, *The Colonial Period of American History*, 4 vols. (New Haven, Connecticut: Yale University Press, [1938] 1964), IV, *England's Commercial and Colonial Policy*, pp. 223–24. This battle began in earnest in the colonies in 1696 with Parliament's passage of "An Act for preventing Frauds and regulating Abuses in the Plantation Trade," which extended the jurisdiction of the vice-admiralty courts in the colonies. *Ibid*., IV, p. 160.

the fundamental agency—of political freedom.[56] We have seen why it keeps tyrannical bureaucracies at a distance. We have also seen why the presence of the jury reduces the cost of civil government. It also reduces the cost of settling disputes outside of courts. The jury system is central to the preservation of liberty, and it accomplishes this task on a cost-effective basis.

For this system to function properly in history, judges and jurors must be bound by a single set of universal standards. These standards are the foundation of civic righteousness. The Old Testament affirmed these standards and presented them in a form which the average citizen could understand merely by listening carefully (Deut. 31:10–13).[57] This was crucial if the average citizen was to exercise self-government under law, and it was also crucial if the average citizen was to serve either as a juror or a judge. The New Testament affirms universal legal standards. The New Testament also affirms that all Christians in the community are to be ready to serve as judges in the community.

E. "Judge Not!"

One of the most famous New Testament verses, in one of the most misunderstood passages, is Matthew 7:1: "Judge not, that ye be not judged." What antinomians fail to recognize is that Matthew 7:1 is followed by Matthew 7:2: "For with what judgment ye judge, ye shall be judged: and with what measure ye mete, it shall be measured to you again." We must raise this crucial question: What if we *do* want to receive righteous judgment? *Then we must judge righteously*, not abstain from judging. Matthew 7:2 establishes the legitimacy of the quest for righteous judgment. So do Matthew 7:3 and 7:4. "And why beholdest thou the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye? Or how wilt thou say to thy brother, Let me pull out the mote out of thine eye; and, behold, a beam is in thine own eye?" Then comes Matthew 7:5: "Thou hypocrite, first cast out the beam out of thine own eye; and then shalt thou see clearly to cast out the mote out of thy brother's eye."

The idea behind Matthew 7:1–5 should be very clear: *it is legitimate and even mandatory that we seek righteous judgment if we do not want to be brought under civil judges who exercise unrighteous judgment*. First, we

56. Magna Carta's principle of trial by a jury of one's peers (1215) antedated by over six centuries the principle of universal suffrage by secret ballot. The American territory of Wyoming gave the vote to women in 1869. Wyoming became a state in 1890.

57. North, *Inheritance and Dominion*, ch. 74.

are to exercise self-judgment: identifying the beam in our own eye and then removing it. Second, we are to exercise legitimate and righteous judgment of our brother: warning him of the mote in his eye. In both cases, clear vision is mandatory. But the popular interpretation by Christian antinomians is that this passage prohibits making judgments. On the contrary, it make mandatory righteous judging by the saints. It also makes trial by jury mandatory: first in the church (Christian vs. Christian: I Cor. 6); then in civil government.

Can you imagine a society that would attempt to run its army or police forces in terms of the antinomians' interpretation of "judge not"? This would produce social chaos for the righteous and a free ride for lawbreakers. Nevertheless, pious Christians insist that Christians should never criticize others. If this were accepted as a valid judicial principle, it would turn over all civil government to covenant-breakers. Christians would not even be allowed to vote, for voting is a formal means of judging: the bringing of negative sanctions against poor performers in the political realm.

We should also ask: Why the metaphor of the eye in this passage? The eye in the Bible is used time and again as the metaphor of exercising judgment: *evaluation* and *execution*. "And God saw every thing that he had made, and, behold, it was very good" (Gen. 1:31a). "And thou shalt consume all the people which the LORD thy God shall deliver thee; thine eye shall have no pity upon them: neither shalt thou serve their gods; for that will be a snare unto thee" (Deut. 7:16). The eye perceives the facts around us. The eye is the metaphorical agency by which we sort the reality around us. *The eye is the metaphorical agency of righteousness judgment*. This is why we are told if we are lured into some sin by the eye, we are to rip the eye out (Matt. 18:9). This is not to be taken literally, but it is to show us how important it is not to misuse God's gift of vision to man.

We are no more to say "Judge not, in order that you be not judged!" than we are to say "See not, in order that you be not lured into sin!" These verses teach the very opposite: "Judge righteously, in order that you may be judged righteously," and "sin not, in order that you may see clearly." *It is by means of the metaphorical eye that we are to exercise judgment in history*. Yes, the Scripture says to rip our eyes out, but this instruction is given in order to persuade us to exercise incorruptible vision. Sin is worse than blindness; hence, we are told by implication, "sin not," *not* "see not." Yes, the verse says "judge not that ye be not judged," but the goal is not to persuade us either to close our eyes or

to stop judging. The goal is to persuade us of the importance of always exercising righteous judgment in terms of God's Bible-revealed law. What the passage really says is this: when we *seek* righteous judgment we must do so by always *exercising* righteous judgment. This refers to our individual circumstances, meaning self-judgment. It also refers to our civil actions as either jurors or judges in the community.

F. Confession and Plea-Bargaining

There is always the possibility of self-confession. Such a confession must be based on a frank and true admission of the facts. The individual must not be a mental deficient. He must also not be a known seeker of publicity. There are individuals who testify again and again to the police that they committed a particular crime, when in fact the police know that it would be impossible for this person to have committed the crime. More important, there must be no torture of an individual in order to gain a confession or information regarding criminal behavior.

Torture in the West was introduced by the Greeks and passed into Roman law.[58] It was not common in the Medieval era. It reappeared in Europe during the early Renaissance—specifically, during the Inquisition of the thirteenth century. This had been preceded by the legal revolution of the twelfth century, when Roman civil law was reintroduced into Europe.[59] This was part of a four-fold Renaissance rediscovery process: the reintroduction of Roman civil law, torture, widespread chattel slavery,[60] and occultism.[61] The use of torture is exclusively an attribute of God. It is confined to the life hereafter. The individual is to testify to the truth. An individual who is being tortured has a tremendous incentive to admit to anything in order to stop the pain. Thus, torture is inherently against the law of God. It encourages people to testify to falsehoods: bearing false witness.

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58. Edward Peters, *Torture* (New York: Basil Blackwell, 1985), ch. 1.

59. *Ibid*., ch. 2. Peters wrote: "The legal revolution took more than a century to be accomplished. It appears that its new procedure was generally in place before torture became a part of it." *Ibid*., p. 45.

60. This began on the Atlantic islands in the mid-1400s: sugar production. William D. Phillips, Jr., "The Old World background of slavery in the Americas," in *Slavery and the Rise of the Atlantic System*, ed. Barbara L. Solow (New York: Cambridge University Press, 1991), ch. 2.

61. Edgar Wind, *Pagan Mysteries in the Renaissance* (London: Faber & Faber, 1958); D. P. Walker, *Spiritual and Demonic Magic from Ficino to Campanella* (London: Warburg Institute, 1958); Francis A. Yates, *Giordano Bruno and the Hermetic Tradition* (New York: Vintage, [1964] 1969).

Second, there must be no promise by the civil authorities of leniency as a result of the criminal's confession. The victim of a crime may lawfully specify a reduced penalty in his quest for a conviction, but not the state. The victim may promise to reduce the penalty, but only if the criminal confesses to the actual crime, not a lesser crime. The practice of confessing to a lesser crime in order to escape prosecution for a greater one is known in the modern world as plea bargaining. An individual should not be not allowed to testify to a lesser crime in order to save the state the cost of prosecuting him in order to convict him of a greater crime. *An individual is to be brought to justice, not injustice*. The state is the victim's agent, who is in turn God's agent. The victim is assigned the responsibility of bringing a covenant lawsuit into court against the suspected criminal. The state must therefore prosecute to the limit of the law.[62]

When someone plea bargains by confessing to a lesser crime, the state then announces publicly that it is satisfied. The public is not informed regarding the true degree of the individual's guilt. The degree of danger to the public is underestimated by such a public announcement by the state. Thus, the state is offering false witness. While it is true that those who commit greater crimes may escape judgment because the state does not have sufficient evidence to convict them of those crimes, it is also true that the state is not to bear false witness against a suspected criminal. The state is not to imply that the criminal committed a greater crime than he did, nor is the state entitled to insinuate that the criminal committed a lesser crime than he did. In the prosecution of the law, there is not to be a move either to excessive leniency or excessive severity: "Ye shall observe to do therefore as the LORD your God hath commanded you: ye shall not turn aside to the right hand or to the left" (Deut. 5:32). The law is to be prosecuted in terms of the suspected acts of the individual.

G. Rendering Judgment: A Voice of Authority

Someone must pronounce judgment after the trial ends. Only a lawful authority may do this. This is the second point of the biblical covenant model: hierarchy/authority.[63] A voice of authority is inescapable

62. Gary North, *Victim's Rights: The Biblical View of Civil Justice* (Tyler, Texas: Institute for Christian Economics, 1990).

63. Rendering authoritative covenantal judgment is a covenantal act, and therefore civil judgment conforms to the five points of the biblical covenant model. See Appendix E: "The Covenantal Structure of Judgment."

in the judgments of men. The creation was spoken into existence: "Let there be. . . ." God's law was spoken into existence. We know this because the Bible says repeatedly that "God commanded Moses to say"—i.e., announce God's laws. God spoke His sovereign word—the ultimate and primary word—and Moses repeated it as a secondary witness. The lawmaker acts *re-creatively*: discovering and announcing God's word or else denying it. He is inescapably a witness: either to the truth of God's word or against it.

God is identified in the Bible as the word (John 1:1). *There is no escape from the speaking of God's word in history*. Men are representative agents, so they cannot escape this obligation. There must be a voice of authority that does pronounce judgment: guilty or not guilty. It is never a question of pronouncing judgment vs. not pronouncing judgment. It is always a question of who pronounces judgment and the judgment pronounced. Silence on the part of the authority is nevertheless a judgment. The authority cannot escape responsibility by remaining silent.

Conclusion

The Bible specifies the locus of primary judicial sovereignty: the local court. This court has the benefit of better knowledge of the facts and circumstances of any alleged crime. It has a tradition of judicial decisions (precedents) that is familiar to jurors. It is made up of people who speak God's law—jurisdiction—with a familiar local "accent." This enables local residents to forecast more accurately what is expected of them. This reduces forecasting costs.

The jury is the culmination of a long tradition of Christian history. The jury makes possible a greater division of judicial labor. A jury is less likely to be arbitrary than a lone judge. Men can obtain justice less expensively because of the greater efficiency of a jury's collective judgment. The authority of the jury at the local level provides a counter to the decisions of professional bureaucrats.

By lodging in local courts the final authority to declare an accused person "not guilty," God's law provides a check to the centralization of political power. A distant civil government cannot impose its will on local residents without a considerable expenditure of time and money, possibly risking the public's rejection of the central government's legitimacy, the crucial resource of any government.

16

THE STATE'S MONOPOLY OF VENGEANCE

> *Thou shalt not avenge, nor bear any grudge against the children of thy people, but thou shalt love thy neighbour as thyself: I am the* Lord.
>
> LEVITICUS 19:18

The theocentric focus of this law is this: only God can know a person's heart (Jer. 17:9–10). Therefore, only God is entitled to judge a person's heart. Because a civil judge is not God, he cannot legitimately claim to be able to search another person's heart in his quest for civil justice. The affairs of the heart and mind are off-limits to the state. There can be no lawful civil sanctions against thoughts or attitudes. We must conclude that the prohibition against holding grudges (Lev. 19:18) cannot be an aspect of the Mosaic civil law.[1] Such a civil law is inherently unenforceable.

A. Love Is Unenforceable

Civil law also cannot enforce an attitude of love; hence, civil law is not the focus of the command to love one's neighbor, except insofar as love is defined judicially: treating the neighbor legally, i.e., love as the fulfilling of God's law (Rom. 13:10). But even in this case, there would have to be an infraction of a specific civil law or an act against another person's rights—lawful immunities (protected boundaries)—in order to enforce this law of compulsory love. Hence, this law, too, is inherently unenforceable by the state.

1. This is why all polygraph or "lie detector" exams must be submitted to voluntarily. A civil court cannot lawfully use the results of a compulsory lie detector examination as evidence against an individual, nor may any civil court use a person's refusal to submit to such a test as evidence against him. The same principle applies to the use of hypnotism.

Nevertheless, this verse begins with a prohibition against individual acts of vengeance. This is clearly an aspect of civil law; the relevant Mosaic case law is the requirement that any man who injures another man in a fight must pay restitution to him (Ex. 21:18–19): no private vengeance.[2] But why is this verse's negative injunction attached to two other injunctions that are clearly individual moral injunctions—aspects of self-government rather than civil government? By prohibiting personal grudges and requiring personal love, this verse makes it clear that the concern of the civil portion of this civil law is the elimination of privately imposed vengeance. The civil prohibition against taking vengeance applies only to individual actions. This prohibition does not apply to the state. Civil law applies negative sanctions to individuals who commit specified prohibited acts; hence, it applies to individual acts of vengeance. Vengeance is legitimate when imposed by the state.

The parallel verse in Deuteronomy was used by Paul in his epistle to the Romans to introduce his discussion of the civil magistrate. "Dearly beloved, avenge not yourselves, but rather give place unto wrath: for it is written, Vengeance is mine; I will repay, saith the Lord" (Rom. 12:19; cf. Deut. 32:35a). Paul's message is *not* that there should be no vengeance in history. On the contrary, he immediately launched into a discussion of the civil magistrate's administration of vengeance: "...for he beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil" (Rom. 13:4b). It is a mistake to see Paul's prohibition of vengeance in these verses as applying to the institution of the state, any more than "thou shalt not kill" applies to the state.[3] What Leviticus 19:18 does is to establish the state as the lawful monopolist of covenantal vengeance in history.[4] The Bible is neither pacifistic nor anarchistic; it affirms the legitimacy of the state in seeking public law and order. But both the law and the order must be God's—a covenantal, oath-bound law-order.[5]

2. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3: *Tools of Dominion* (1990), ch. 35.

3. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 11.

4. The family is not an agency of vengeance. It is an agency of justice only within the boundaries of a covenanted household.

5. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 12.

B. Monopoly Control Over the Sword

The Bible makes it clear that the judicial role of the state is derived directly from God. The civil government is a covenantal institution, along with the family and the church. The state is an agency that applies negative physical sanctions in addition to enforcing restitution. This authority to bring negative physical sanctions is granted by God to fathers (the "rod") and to the state (the "sword"). The family lawfully brings positive sanctions; the state does not. The family creates wealth; the state protects wealth, but does not create it.[6]

1. The Sword

The Bible establishes the civil government as God's monopoly of vengeance. Individuals must be protected from vengeance by anyone except a civil magistrate. A trial is required by God before vengeance is imposed. There are two archetypes of such a trial: the historical trial of Adam, Eve, and the serpent (Gen. 3), and the final judgment (Matt. 25). There must be a public declaration of the court's decision before there can be a lawful imposition of vengeance. Vengeance, being judicial, must be preceded by a public declaration of guilt. *The imputation of guilt is always a covenantal act*. It is never lawfully an individual act, nor is the subsequent imposition of negative penal sanctions.[7]

This covenantal aspect of penal sanctions places judicial and institutional boundaries on the spread of violence. God delegates to officers of the state the sole authority to declare guilt and impose vengeance. The investiture of such judicial authority is the civil equivalent of the church's anointing or laying on of hands. In modern democracies, an implicit priestly authority of individual voters is the humanistic covenantal basis of this political anointing.

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6. The major exception seems to be highways. In the Mosaic Covenant, a few highways were compulsory as physical avenues to justice for those guilty of accidental manslaughter (Deut. 19:3). There were no doubt positive economic side-effects of these roads, but their function was judicial, not economic. With the New Covenant's annulment of the law of the kinsman-redeemer, state-financed highways can be defended biblically only by implication: the provision of less expensive access to legal centers.

State-funded roadways have negative effects as well as positive. What is virtually never discussed publicly is the major economic reason why there is such pollution-creating urbanization today: the existence of huge, taxpayer-financed highway systems leading into cities and criss-crossing through cities. The largest of these highways are called "freeways" in California. They are not free.

7. This is why the office of kinsman-redeemer must have been a civil office. See subsection 5: "The Kinsman-Redeemer."

Civil sanctions must be exclusively negative. They are *penal* sanctions. They punish those who have violated the protected legal boundaries. Any attempt to transform the state into an agency that lawfully dispenses positive sanctions is an aspect of political messianism. A messianic state is regarded as a healer, meaning an agency that is a legitimate source of wealth rather than the absorber of the wealth of the citizen-priests who constitute it judicially.

One politician who saw the implications of such a view of the state was Frédéric Bastiat. In 1848, the year of the European revolutions,[8] Bastiat, a free trade polemicist and member of the French Legislative Assembly, had his essay, "The State," printed in the *Journel des debats*. A master of analogies, he compared the state with a pair of hands:

> The fact is, the state does not and cannot have one hand only. It has two hands, one to take and the other to give—in other words, the rough hand and the gentle hand. The activity of the second is necessarily subordinated to the activity of the first. Strictly speaking, the state can take and not give. We have seen this happen, and it is to be explained by the porous and absorbent nature of its hands, which always retain a part, and sometimes the whole, of what they touch. But what has never been seen, what will never be seen and cannot even be conceived, is the state giving the public more than it has taken from it. It is therefore foolish for us to take the humble attitude of beggars when we ask anything of the state. It is fundamentally impossible for it to confer a particular advantage on some of the individuals who constitute the community without inflicting a greater damage on the entire community.[9]

What one hand giveth, the other hand taketh away . . . plus an extra percentage for administration. (In the United States in the late 1980s, this extra fee amounted to 100%: half went to the beneficiaries, half to government bureaucrats.)[10]

2. Judicial Conditions of Wealth-Creation

The state makes wealth-creation possible for individuals by protecting private property, i.e., by protecting individuals who own property. The state is required by God to enforce the decisions of

8. Jean Sigmann, *1848: The Romantic and Democratic Revolutions in Europe* (New York: Harper & Row, 1979); Frank Eyck (ed.), *The Revolutions of 1848–49* (New York: Barnes & Noble, 1972).

9. Frédéric Bastiat, "The State" (Sept. 25, 1848), in Bastiat, *Selected Essays on Political Economy*, ed. George B. de Huszar (Princeton, New Jersey: Van Nostrand, 1964), p. 146.

10. James L. Payne, *The Culture of Spending: Why Congress Lives Beyond Our Means* (San Francisco: ICS Press, 1991), p. 51.

property owners to exclude others from using their property. The state is therefore to enforce legal boundaries that are established by private contract. Property owners are given legal immunities—*rights*—by God in history, and these immunities are to be defended by the state whenever the victim of an unauthorized invasion appeals to the civil magistrate. The state is to defend the rights of stewards over the property that God has assigned to them by covenant (lawful inheritance) or by contract. As Rushdoony wrote, "All property is held in trust under and in stewardship to God the King. No institution can exercise any prerogative of God unless specifically delegated to do so, within the specified area of God's law. The state thus is the ministry of justice, not the original property owner or the sovereign lord over the land."[11]

This means that property rights are human rights. With one exception, any attempt to distinguish property rights judicially from human rights is inherently statist and anti-biblical. That exception is the subset of rights that can be called *priestly rights*: worship and life. Sacrilege and murder are to be defended against, even at the expense of violations of other legal immunities. Where an individual is threatening one of these priestly rights, the state must intervene to protect the victim. In some cases, God authorizes another individual to intervene if the state refuses. Apart from these two priestly exceptions, however, the distinction between human rights and property rights is a subversive attempt to legitimize state power in its interference with a person's stewardship over the property assigned to him by God and for which he is held responsible by God. *Property rights are inescapably an aspect of human rights*. It is true that property rights are not absolute—nothing since the closing of the canon of Scripture is absolute—but they are on the same judicial level as any other human rights except those associated with worship and life. Property rights are not impersonal and therefore are not judicially subordinate to personal rights; property rights are both personal and judicial. The familiar dualism between human rights and property rights should always be resolved in terms of stewardship under God. The key question is this: To whom has God delegated the authority to exercise representative control His property? A discussion of the rights of property should begin with a consideration of God's rights to property.

11. R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), p. 504.

3. Positive Benefits Through Negative Sanctions

By remaining exclusively negative judicially, a biblically restricted state serves as a beneficial agency of government within society. This is the only way that it can remain an exclusively positive force in society, given its source of funds. The state is financed by the collection of taxes.[12] Taxes, like the church's tithe, apply legitimately only to individual income and net increases in an individual's wealth (capital gains). This means that neither the church nor the state can lawfully tax capital, meaning property. This also means that the state cannot lawfully tax church property. Property, biblically speaking, is tax-immune—not just the church's, but all wealth-producing assets. The fruit may be taxed, not the tree. The state is an economically dependent institution, not an economically creative institution.

The state has a God-given right to collect taxes by threat of violence. It is therefore not authorized by God to become an agency of positive sanctions, for that would involve asserting its authority as a compulsory agency of healing.[13] There is no *compulsory*, earthly, covenantal agency of healing in history. Churches and families, while covenantal agencies of healing, are voluntary institutions.[14] The state is compulsory. It can reward one group only by imposing penalties on some other group. God has therefore placed it under strict judicial boundaries. It is not to be regarded by anyone as a creative institution. It is instead exclusively protective. It is a monopolistic agency of vengeance against wrongdoers (Rom. 13:1–7).[15] Its task is not to make men good; rather, it is to penalize biblically identified evil acts. To this end, God has given it the sword.

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12. It can print fiat money, which is a form of taxation: compulsory wealth redistribution from those who gain access to the fiat money before prices rise, from those who gain access to money later in the process. The state can also borrow, but this only transfers wealth from lenders to the state. The state can gain access to credit only by promising to repay the lenders. This means that it must impose taxes (including the inflation tax) later.

13. This is not a denial of the state's legitimate role in public health: defense against contagious diseases. See chapter 14.

14. How can the church be an agency of healing if its only God-mandated income is the tithe? Isn't its dependent condition analogous to the state's dependence on taxes? Doesn't the church also have only two hands: a gentle one and a rough one? This analysis overlooks the positive aspect of the church's covenantal sanctions: the sacraments. Only the church can lawfully confer the sacraments on its members. In contrast, the state is not a means of special grace. It is an agency that administers common grace only to the extent that it confines itself to punishing evil acts.

15. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans,* 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 11.

God is the original source of lawful violence—negative sanctions—in both history and eternity. The state is God's designated monopolistic agent of lawful violence against convicted criminals. God brings negative sanctions; so does the state. God's negative sanctions are physical, in time and eternity. The state's ultimate negative physical sanction is the right of execution: excluding people from continuing access to the blessings of God in history. By executing a person, the state transfers the person's soul into God's heavenly court for final judgment. The state's court thereby becomes the agency of next-to-the-last judgment. God's court brings the final judgment.

4. Self-Defense

This does not mean that only the state can lawfully possess and use deadly weapons. *The person who kills another in self-defense is acting as a lawful agent of God*. There are civil laws governing this God-granted authority to kill another person. The case law of Exodus 22:2 allows a householder to kill a burglar if the owner catches him while the intruder is breaking in. The intruder has no legitimate reason to be inside the house. The resident has a legitimate role as a defender of his household's boundaries. God has delegated this authority to him. The occupant cannot know for sure why the invader has entered his home without permission, so he is allowed by God's law to assume the worst: the invader is a potential murderer. He can lawfully be killed by the person who resides there. The mere transgression of the home's boundary is sufficient to remove the protection of God's civil law from the invader. If caught by the homeowner and threatened with a weapon to prevent his flight before the police arrive, the invader is not protected by God's law from execution should he attack the homeowner. Those lawfully inside the house are protected by God's law; therefore, the invader is not. The thief may be struck while breaking in. If he attempts to flee, the resident is not supposed to kill him, for he is no longer breaking in. But the benefit of the doubt is always with the defender. This execution of an illegal invader is not an act of personal vengeance; rather, it is an act that defends a lawful boundary. The defender acts in the name of the state and is authorized by the state because no policeman is available to enforce the law.

By implication, this case law establishes the judicial plea of self-defense. The person who is given cause to believe that an assailant is ready to kill him is entitled to kill the assailant. The civil government

is required by God to investigate the reasons for any killing of a human being.[16] The judges must examine the evidence in order to determine whether a murder trial should be held.[17] The person who faces a life-threatening assault must decide which risk is greatest: (1) death from the assailant if no action is taken; (2) death from the assailant in a failed self-defense; (3) death from the state for murder of the assailant. There is a slogan used by American defenders of their Constitutional right to own and use guns.[18] "I would rather be tried by twelve than carried by six." When a person is faced with a life-threatening attack, a jury in his future is preferable to pallbearers.

The plea of self-defense is in fact a plea of the right to defend oneself as an authorized agent of the state. Self-defense is not an autonomous act of violence. It is not an act of vengeance. It is a boundary defense.

What is clearly prohibited is vengeance by the victim after the suspect has fled from the scene of the crime. In such a case, there can be no claim of self-defense if the suspect dies as a result of the attack. The victim faces no life-threatening attack. His response is therefore limited to bringing a lawsuit. He may lawfully seek out the civil magistrate as a public avenger, but he is not allowed to impose vengeance unilaterally.[19]

5. The Kinsman-Redeemer

This restriction did not apply in the Mosaic economy to a family's blood-avenger (kinsman-redeemer). The nearest male relative

16. The passage that establishes this requirement is Deuteronomy 21:1–9, which requires a special sacrifice when a body is found outside a city, and the elders cannot discover who committed the crime.

17. In common law, this authority to decide to hold a trial belongs to the grand jury, which hands down an indictment. Then the trial is held.

18. This is the Second Amendment of the Constitution: part of the original Bill of Rights. More than any other Constitutional guarantee, this one is under political assault. It was imposed on the Federal government in the 1790s because citizens had achieved parity of weaponry with the state. They were determined to keep this parity, which they recognized as the means of enforcing boundaries on the state. Parity in weaponry was the technical basis of the advent of modern democracy. Carroll Quigley, *Tragedy and Hope: A History of the World in Our Time* (New York: Macmillan, 1966), pp. 34–35. Quigley was an expert in the history of warfare and weaponry and their relation to politics.

19. Some legal codes authorize people to pursue a criminal who is fleeing from the scene of a crime. This is the doctrine of citizen's arrest. Civil government may lawfully authorize such a practice. This law in effect makes the citizen a deputy of the state. If the suspect is injured by the citizen-arrester under such circumstances, the citizen would be at legal risk if the suspect is not subsequently convicted for the crime in question.

was empowered by law to execute anyone suspected of having murdered his relative, even if the death was an accident (Deut. 19). In this unique instance, the kinsman-redeemer became a lawful agent of the tribal civil government. On the one hand, Deuteronomy 19 delegated to the nearest male kinsman the state's authority to impose vengeance, i.e., to the person most likely to have the emotional incentive to impose it. On the other hand, it placed judicial boundaries around the spread of clan vengeance in the following ways. First, only one person could lawfully perform this act of vengeance. Second, he could not pursue his target into a city of refuge. Third, if cleared by the judges of such a city of refuge, the suspect could return home in safety at the death of the high priest. Fourth, if the suspect was caught and executed by the blood-avenger before he reached the city, the dead man's family could not lawfully seek vengeance against the blood-avenger. By implication, it was not legal for the fleeing person to kill the blood-avenger in self-defense, any more than he was authorized to kill a civil magistrate. Of course, the fleeing person might prefer to be "tried by twelve rather than carried by six." He might subsequently claim that he did not know the pursuer was in fact the dead person's blood-avenger. But in a small, face-to-face community, this excuse would not have carried much weight.

The New Covenant has annulled the office of earthly high priest (Heb. 7), which was central to the office of kinsman-redeemer (Num. 35:28). The New Testament therefore has annulled the family as an agency empowered by the state to bring this negative physical sanction. It also annulled the geographical monopoly of certain tribes over specified regions in Israel. The laws governing the blood-avenger/kinsman-redeemer are no longer in force. This includes the laws of the levirate marriage (Deut. 25:5–10).[20]

God's law places boundaries around men's lives. The state may lawfully deprive a person of his life if the person is convicted of a capital crime, but otherwise he is to be protected. The law is an innocent person's defensive shield because the law is the state's offensive weapon against boundary violators.

C. The Warlord Society

The state possesses a monopoly of vengeance and violence, although in some instances the individual acts as an agent of the state in de-

20. Gary North, *Inheritance and Dominion: An Economic Commentary on Deuteronomy*, 2nd ed. (Dallas, Georgia: Point Five Press, [1999] 2012), ch. 64.

fending himself and those under his authority. What is the rationale for the creation of such a monopoly? To limit the number of people seeking violent vengeance, i.e., *boundary violators*.

These state-"anointed" agents can be identified. The agent has the authority to announce himself as an agent of the state. He is usually marked in some way: uniform, badge, or credentials.[21] It is illegal for anyone not so authorized (oath-bound) to wear or bear such marks of authority. The authority to act in an official capacity as God's minister of vengeance is circumscribed by God's law. This limits the number of instances in which violence becomes likely. The goal of any monopoly is to reduce the quantity supplied of some scarce economic resource. In this case, the item to be limited is violence.

By limiting the amount of lawful violence in a society, the law of God channels violence. Residents in a covenanted nation know what to expect from the state. They can identify the lawful uses and applications of violence, and therefore they can identify the unlawful uses. There are far fewer lawful uses than unlawful uses. Biblical law specifies the boundaries of lawful violence and thereby identifies unlawful violence. It includes some violent acts and therefore excludes all other violent acts.

It is less costly to specify the legitimate agents of violence than to identify every possible illegitimate agent. By identifying the primary agency of coercion, i.e., the state, biblical law places this institution under greater public scrutiny. By lowering the number of legal public acts, biblical law lowers the cost of publicly scrutinizing the state. More limits are placed around the state as a result of these lower costs of scrutiny. As the agency of violence, the state is feared; a feared agency is likely to be scrutinized more closely by its potential victims. Citizens covenant under God to establish state authority; they monitor the state's activities because of their fear that the state's officers will exceed their lawful boundaries. This is especially true in societies where the state has not become a functional agent of healing. The more acceptable the messianic claims of the state, the less incentive there is for citizens to scrutinize it and limit it. The power to tax is the power to destroy, and the costs of healing must be paid for by higher taxes. The healer state becomes the destroyer state.

The state is required by God to operate under God-revealed biblical law. This biblical law-order is quite specific. The state must apply sanc-

21. His vehicle may be similarly marked. Drivers of state-authorized vehicles alone have the right to use flashing red lights and sirens.

tions specified by the victims. These sanctions are specific. The state is under judicial limits.[22] It is also governed by written law. These laws are supposed to be understood by citizens, which is why the whole law had to be read to the assembled nation every seventh year (Deut. 31:10–13).[23] Citizens are expected by God to know the boundaries that God has placed around them as individuals and also around the state.

This means that the state's sword is to be used sparingly. It is governed by God's civil law. The state is not authorized by God to impose negative sanctions outside the limits of the law. The law circumscribes the application of the sword. Put another way, the magistrate's use of violence cannot lawfully be extended to areas that have not been authorized by the law, either explicitly or as extensions of a case law or a judicial principle. In short, *whatever is not prohibited by law is allowed*. This legal principle is derived from God's original command to Adam regarding judicial boundaries placed around a particular tree. Everything else was permitted to Adam; hence, no negative sanctions were threatened in these areas.

D. Trinitarianism, Unitarianism, Individualism

There are three general judicial ideals: Trinitarianism, unitarianism, and individualism. The first is covenantal, the second is holistic, and the third is atomistic. Their representative philosophical views are covenantalism, realism, and nominalism. Their representative civil views are biblical theocracy, statism, and anarchism. Their representative economic views are morally bounded capitalism,[24] socialism, and anarcho-capitalism.

Trinitarianism establishes the legitimacy of four judicially circumscribed, oath-bound covenants under God: individual, ecclesiastical, familistic, and civil. Trinitarianism affirms the equal ultimacy of the one and the many: in the Godhead, in history, and in eternity. God is absolutely sovereign; therefore, no single institution is granted final earthly sovereignty.

By establishing limits on the authority of all levels of civil government to tax individuals at a rate equal to or greater than 10% (the

22. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), Appendix M.

23. North, *Inheritance and Dominion*, ch. 75.

24. Free exchange and free pricing of anything except morally prohibited acts or commodities, e.g., prostitution, pornography, and the use of addictive drugs in quantities that distort perception enough to produce actions that endanger the individual's life or the lives of those around him.

tithe), biblical law prohibits socialism. The state is placed under extreme limits. Socialism—the government's ownership of, or control over, the means of production—is an explicitly anti-biblical ideal.

By establishing the civil government as a monopoly institution for imposing vengeance, biblical law prohibits anarchism. The judicial ideal of modern libertarianism is: (1) the lawful imposition of negative sanctions handed down solely by private law courts; (2) the abolition of all compulsory taxation. Anarchism is an explicitly anti-biblical ideal.

1. Unitarianism and a One-State World

Unitarianism is more than a theology; it is a covenantal system. It has political implications. It is possible to identify unitarian thinking as a separate judicial tradition, as a rival of federalism, which is a judicial development of Trinitarianism: the equal ultimacy of the one and the many. In the eighth edition of his famous study, *Introduction to the Study of the Law of the Constitution* (1915), the English jurist A. V. Dicey wrote of unitarianism as a legal ideal: "Unitarianism, in short, means the concentration of the strength of the state in the hands of one visible sovereign power, be that power Parliament or Czar. Federalism means the distribution of the force of the state among a number of co-ordinate bodies each originating in and controlled by the constitution."[25] He was also correct when he observed: "Federal government means weak government."[26]

Federalism, Dicey concluded, also means the free market economy. "Federalism, as it defines, and therefore limits, the powers of each department of the administration, is unfavourable to the interference or to the activity of government. Hence a federal government can hardly render services to the nation by undertaking for the national benefit functions which may be performed by individuals. This may be a merit of the federal system; it is, however, a merit which does not commend itself to modern democrats, and no more curious instance can be found of the inconsistent currents of popular opinion which may at the same time pervade a nation or a generation than the coincidence in England of a vague admiration for federalism alongside with a far more decided feeling against the doctrines of so-called *laissez faire*."[27]

Were we to develop unitarianism to its logical conclusion, we would

25. A. V. Dicey, *Introduction to the Study of the Law of the Constitution*, 8th ed. (Indianapolis, Indiana: LibertyClassics, [1915] 1982), p. 87.

26. *Ibid.*, p. 97.

27. *Ibid.*, pp. 98–99.

arrive at the modern (and also very ancient) ideal of the one-dtate world. A unitary, centralized civil government possessing all political authority would replace local, regional, and national civil governments. Between the citizen and the central government no intervening civil authority would be allowed to intrude. This is not simply the ideal of a one-world state, meaning a central civil government serving as a supreme appeals court and arbiter between rival nations. It is the ideal of a single unitary state that governs all men: a one-State world. It is the judicial ideal that motivated the builders of the tower of Babel (Gen. 11).[28]

2. Anarcho-Capitalism as Regional Warlordism

There have been very few intellectual defenses of this libertarian judicial position.[29] The practical issues associated with the theoretical ideal of private law courts and private police forces are almost as difficult to resolve as the organizational problems of national defense in a society without a national government—a nation surrounded by hostile national governments, most of which must be presumed to be capable of a military invasion. These issues are, in fact, the very same covenantal issue. The issue is the identification and limitation of the institutional authority to impose negative sanctions against all those who have transgressed certain publicly identifiable boundaries, i.e., invaders.

If no single agency has the monopolistic authority to impose negative sanctions, then society must face this crucial question: How can peace be maintained? The free market is voluntaristic. Its negative sanctions are not physical. They involve such actions as refusing to buy a product or complaining publicly about a poor product. But if there is no agency whatsoever that is authorized by the community as a whole to specify and then identify certain acts as violent or fraudulent, then the violence of mankind is removed from publicly agreed-upon, legally *sanctioned* boundaries. Acts of aggression by sinful men are thereby removed from all civil restraints through the abolition of civil government.

To defend themselves, individuals must then become defensive warriors and avengers. They will voluntarily contract with other men

28. R. J. Rushdoony, "The Society of Satan," *Christian Economics* (July 7, Aug. 4, 1964), reprinted in *Biblical Economics Today*, II (Oct./Nov. 1979). Cf. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, [1982] 2012), ch. 19.

29. The most detailed exposition is Bruce L. Benson, *The Enterprise of Law: Justice Without the State* (San Francisco: Pacific Research Institute for Public Policy, 1990).

in defensive alliances. If these contractual alliances are not to become civil governments—monopolies of violence—they must not exercise territorial sovereignty. This is another way of saying that they cannot mark out areas of territorial sovereignty: the monopoly authority to include and exclude. They are alliances within a territory, competing with other alliances within the same territory. They lose all covenantal status. There is no means of anointing these alliances or their rulers. There is no civil equivalent of the laying on of hands. There is no way to gain non-coercive agreement from non-participants in the contractual alliance regarding which court or system of courts has lawful jurisdiction over non-participants.

These contractual alliances could take on the character of insurance companies. They might become arbitration societies. They might become gangs. Whatever their legal structure or market positioning, attached to some of these companies will be police forces. Competitive companies in a world without civil sanctions would have to employ appropriate means to enforce sanctions in order to enforce their decisions. The issue of negative physical sanctions cannot be avoided. All people are not peaceful all of the time. Some people will impose negative physical sanctions on others. Negative physical sanctions are therefore an inescapable concept. The decision is not: "negative physical sanctions or no negative physical sanctions." The question is: *Whose* negative physical sanctions?

3. Conservatism as International Warlordism

Warlordism is the ideal for international relations for both the right-wing Enlightenment and right-wing Anabaptism. It assumes that there can never be a way to settle international disputes other than by delay, war, or surrender. The Trinitarian ideal of Christendom—clearly, an internationalist ideal—is categorically rejected by both the Enlightenment and Anabaptism. The eighteenth-century's right-wing Enlightenment thinkers denied that there should be a supreme civil court internationally. President Washington's 1796 Farewell Address—a newspaper article, not a speech—is a good example of this view of international affairs. Nations are expected to avoid all legal involvement with each other except when they need military help from each other, as in the case of the crucial 1777 French treaty with the English North American colonies. There is no positive ideal of international relations; only a negative one. This outlook is consistent with the right-wing Enlightenment's ideal of autonomous man.

To the extent that the right-wing Anabaptist tradition has become dominant in Protestant Christianity, there has been an equally strong rejection of the ideal of Christendom, which would include an international system of appeals courts, both civil and ecclesiastical. This outlook parallels the Anabaptists' ideal of the judicially autonomous local congregation.

Internationally, warlordism is today's world system: the strongest military power gains judicial legitimacy wherever it can extend its will. The territorial warlordism of pre-Communist China, where warlords' domains were separated by dialects, or great rivers, or high mountains, is today replicated internationally. Judicial Trinitarianism is opposed to warlordism, both national and international. But the warlord standard dominates international law.

Because statism is the heresy of this age, men assume that politics is primary. It isn't. *Church order is primary*. Because Jesus set forth the covenantal ideal of a *single worldwide church*, there is no escape from the covenantal ideal of a *one-world state*. Jesus made the ideal of ecclesiastical unity inescapably clear in His prayer of intercession: "That they may all be one; as thou, Father, art in me, and I in thee, that they also may be one in us: that the world may believe that thou hast sent me. And the glory which thou gavest me I have given them; that they may be one, even as we are one" (John 17:21–22). Ecclesiastical unity—a single confession of faith in the Trinitarian God—is the ideal for eternity; it is also the ideal of history. It is basic to evangelism, Jesus said: "that the world may believe that thou hast sent me." But a one-world state is not the same as a one-state world. There are separate denominations. So are there separate states. But there is a biblical ideal of an appeals court in both church and civil government. Disputes are to be settled apart from war.

The world has become a warlord society because the church is not institutionally unified by a common legal confession. But it is unified in the sense that the whole church participates in the sacraments of baptism and the Lord's Supper. This covenantal unity cannot be denied in principle; it can only be delayed in history. But if all men are required by God to have a unified confession of faith in order to gain lawful access to God's judicially unified sacraments, then the ideal of a one-world legal order, and therefore also a one-world state, is a corollary. The civil magistrate is also a minister of God (Rom. 13:4).[30]

Because the modern church has rejected postmillennial eschatology,

30. North, *Cooperation and Dominion*, ch. 11.

its spokesmen cannot conceive of a confessionally unified international church. They are therefore unable to imagine a confessionally unified international world government. They cannot imagine unity and diversity in one international social order. They have rejected social Trinitarianism.

E. Covenantalism vs. Contractualism

No single agency of law enforcement or defense can gain universal legal authority in any territory by means of private contract exclusively. It must have the authority to impose its standards on those who are unwilling to sign the contract. Social order cannot be attained when individuals do not adhere to the same legal standards. Without a monopoly agency to impose justice, the differing concepts of justice, coupled with unjust, violent people, would produce a warlord society. Fallen man's war of all against all would develop into a series of shifting alliances and conflicts among those individuals who command the most powerful private police forces. No single legal order would dominate a territory.

This is why the Bible is incompatible with all forms of anarchism. The Bible specifies a single legal order as the ideal standard for the whole world. This means that there must be an agency that lawfully possesses a monopoly of violence, biblically speaking. The alternative is the warlord society in which a voluntary alliance may gain temporary power to impose its legal order in a particular territory. It cannot attain legitimacy as the enforcing agent of a single, unified legal order without becoming a civil government.

This does not mean that there is no right of rebellion against tyrants. Biblical law demands a hierarchy of judges (Ex. 18).[31] Lower magistrates have legitimate authority, and they can lawfully lead a rebellion against tyranny, as the case of Jeroboam's God-authorized revolt against Rehoboam's high taxes indicates (I Kings 12). Jeroboam served as God's anointed agent of bringing negative sanctions against the central government's tyranny. What the Bible sets forth as an ideal is a one-world state, *but not a one-state world*. A one-state world is an illegitimate unitarian ideal and an eschatologically impossible goal. The fifth and final kingdom (Dan. 2:35) is Christ's; no other will ever appear.[32] The Bible requires civil governments at the local, regional,

31. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 1, *Representation and Dominion* (1985), ch. 19.

32. This is why any prophecy of a future one-state world, or a future one-world humanist state, is a false prophecy.

and international level. It specifies a chain of civil appeals courts, each operating in terms of biblical law, and each subject to reversal by a higher civil court. But a supreme civil court indicates a single state: *a civil chain of command under a single legal standard, the Bible*.

The movement of history is toward a one-world civil government, either humanist or Christian. This parallels the movement of culture either toward humanism's "global village" or Christendom. It moves toward either a top-down command system or a bottom-up appeals court system. But one thing is sure: it is not moving toward a system of justice based on competing legal orders, despite the flare-ups of tribalism and regionalism as humanism breaks down and messianic religions gain new authority. As the gospel spreads, these rival religions will be replaced. There will be winners and losers in the competition for men's covenantal allegiance, but there will not be any illusion or assertion of judicial neutrality as time goes on. Neutrality is a humanist myth, not a biblical principle. There is no neutrality; hence, a one-world state (but not a one-state world) is a biblical ideal.[33] There can be no authority apart from hierarchy.[34] But Exodus 18 makes it clear that this civil government has layers, each with legitimate authority.

F. All Nations Formally Under God

There are several layers of civil government, and in modern Western jurisprudence, several branches within each layer: legislative, executive, and judicial. The delegation of God's unified judicial authority to mankind is always marked by a division of powers, sometimes described as a system of checks and balances.

The existence of a civil covenant, marked by a self-maledictory oath of allegiance, is proof that anarchism is not a biblical ideal. Civil government is a separate jurisdiction from the free market, which is an extension of family government. The state has the God-given authority to settle disputes by force of arms. The free market does not. To argue that it does is to adopt judicial warlordism. But to argue that no one has the right to impose physical sanctions is to adopt utopian pacifism. It is to reject the idea of God's negative sanctions in history through representative agents. If actually legislated, pacifism would lead to tyranny by Satan's representatives in history: evildoers

33. Gary North, *Healer of the Nations: Biblical Blueprints for International Relations* (Ft. Worth, Texas: Dominion Press, 1987), ch. 3.

34. Even the equality of being within the three persons of the Trinity is qualified by the theological doctrine of the economical Trinity: hierarchy with respect to function.

(Rom. 13:1–7). While there can be lawful private arbitration organizations, they do not possess the covenantal authority to impose the sword, that is, the right to declare guilt and impose mandatory penal sanctions. On the other hand, the existence of multiple levels of civil authority (Ex. 18) is proof that judicial centralism is not a biblical ideal. The biblical system of civil government is Trinitarian, not unitarian or atomistic.

There are two theoretical alternatives to social Trinitarianism: political unitarianism and judicial warlordism. The confessional unitarians—which include Orthodox Jews and orthodox Muslims—deny the doctrine of the Trinity. Unitarianism does not affirm the equal ultimacy of the one and the many. It affirms the ultimacy of the one. A consistent application of this view of God leads to the ideal of a top-down centralized state.[35] God mandated the tribal land ownership system for Mosaic Israel in order to restrain the development of a unitary state, for Israel's confession was, on the surface, unitarian: "Hear, O Israel: The LORD our God is one LORD" (Deut. 6:4).[36] Of course, it was ultimately Trinitarian, for God spoke of Himself as plural: "Let us go down . . ." (Gen. 11:7). Social unitarianism rejects the ideal of a decentralized theocratic order that is unified by a common confession, where the power to tax the individual directly is exclusively local, and the jury system is also local.

Judicial warlordism, in contrast, rejects the ideal of a central civil government. It offers a theory of truncated courts: no lawful court of appeal above the person of the warlord unless the warlord consents to it. In judicial warlordism, there is only temporary power for imposing order in the case of disputes; there is no legitimate central authority. One form of theoretical warlordism (anarcho-capitalism) ends the appeals system with the most militarily powerful individual or with the court of the most powerful private police force in a system of private, competing courts. In the version of truncated courts known as nationalism, appeals end with a national civil court. Both of these truncated judicial systems are associated with the right-wing Enlightenment model. These are *polytheistic judicial models*: many laws, many gods. Rushdoony wrote: "The premise of polytheism is that we live

35. This may be why Jews continually embrace the state, to their long-term disadvantage. On this political tradition, see Benjamin Ginsberg, *The Fatal Embrace: Jews and the State* (Chicago: University of Chicago Press, 1993). While there are a few free market economists who are also Orthodox Jews, they generally do their technical economic analyses as secular economists, not as Orthodox Jews.

36. North, *Inheritance and Dominion*, ch. 15.

in a multiverse, not a universe, that a variety of law-orders and hence lords exist, and that man cannot therefore be under one law *except* by virtue of imperialism."[37]

Biblical law, being universal in scope, is not polytheistic. It is also not imperialistic. The top-down judicial order of imperialism is Satan's perverse imitation of God's kingdom. Both systems are comprehensive in their claims, but they are structured differently. God's kingdom is a bottom-up system of appeals courts based on binding covenantal oaths. But the biblical system of appeals courts cannot be limited, for the universalism of God's mandatory covenantal oaths cannot be limited. There is no zone of neutrality, no place of refuge outside the jurisdiction of God.

Judicial Trinitarianism proposes the ideal of Christendom. Why? Because it envisions the extension of God's universal kingdom in history, it affirms a confessionally unified pair of appeals systems—ecclesiastical and civil—that transcends national borders. Judicial Trinitarianism is necessarily internationalist because the kingdom of God transcends political borders.[38] Modern Christianity, being antinomian, rejects the ideal of this international kingdom. The churches deny the possibility of internationalism because they deny the universality of God's law. Modern Christianity is politically polytheistic.[39] Rushdoony was correct: "To hold, as the churches do, Roman Catholic, Greek Orthodox, Lutheran, Calvinist, and all others virtually, that the law was good for Israel, but that Christians and the church are under grace without law, or under some higher, newer law, is implicit polytheism."[40] This antinomian outlook turns over judicial authority to polytheistic humanist kingdoms as surely as the pacifism of the Mennonite sects causes them to turn over the law-making power, police power, and military authority to others. Thus, modern Christians hail as biblically valid the truncated court systems of modern nationalism. They reject the ideal of Christendom on two accounts: its commitment to universal Christian legal standards and its denial of humanistic nationalism as anything more than a temporary stopgap measure analogous to the scattering at the Tower of Babel. They do not regard Babel's scattering as God's curse on covenant-breakers' confession of autonomy: to make themselves a name. Rather, they

37. Rushdoony, *Institutes*, p. 17.

38. North, *Healer of the Nations*.

39. Gary North, *Political Polytheism: The Myth of Pluralism* (Tyler, Texas: Institute for Christian Economics, 1989).

40. Rushdoony, *Institutes*, p. 18.

see judicial Babel as inherent in the human condition, even if all men were to covenant with God.

Nevertheless, the creation of such a supreme judicial civil court must not precede the creation of a supreme ecclesiastical court. The church is the model for the state, not the state for the church. The church continues into eternity; the state does not (Rev. 21; 22). No agency will then be needed to impose civil sanctions: no sin! Conclusion: to begin to create a supreme civil world court before creating the covenantal foundation of a free world society—Christendom—is to attempt the creation of a secular one-world order. It represents a return to Babel.

The inherently international ideal of Christendom is denied by right-wing judicial Anabaptists, but they cannot escape the theoretical problem of social order. Traditionally, they have appealed to civil judicial neutrality—the ideal of either Stoic or Newtonian natural law—in their attempts to deny the ideal of Christendom. They become like the Amish, the archetypal right-wing Anabaptists: trapped in the humanists' judicial order as it moves toward either the one-state world or judicial warlordism. To put it in familiar terms, we find ourselves moving toward either the humanists' New World Order or Balkanization.

Conclusion

Vengeance is God's, but He delegates limited authority to the civil government to impose negative sanctions against law-breakers. The Bible establishes a judicial ideal: the supply of vengeance must be placed under the restraint of Bible-revealed law. This is accomplished biblically by making the state the sole lawful supplier.[41] In the case of negative physical sanctions, except for parental punishing of children, the state is to be the sole supplier of the service.[42]

Biblical law establishes a monopoly of vengeance. The economic function of a monopoly is to reduce the quantity of output of some good or service. The "service" in this case is potentially negative for society: vengeance. There is some socially optimum quantity of this service, but because of the tendency toward autonomy and lawlessness among men, the unrestrained free market would create an oversupply.

41. In the Old Testament, the kinsman-redeemer was lawfully authorized to act as the state's agent.

42. Personal self-defense should be interpreted as an act of state. The state delegates to the individual the authority to impose this sanction in unique circumstances. It is analogous to "citizen's arrest."

The state is required by God to protect private property. The state must honor God-established property rights, i.e., *legal immunities*—boundaries—against invasion. Stewards over property are to have their rights protected by threat of violence by the state against invaders. *Property rights are human rights*. By limiting the number of authorized agents of vengeance, society limits the spread of violence. This also places the state under public scrutiny. *The more limited the state, the less it has to be scrutinized*. The state establishes a hierarchical system of appeals courts (Ex. 18). This system parallels the ecclesiastical court of appeals. The church, not the state, is the model for society. When the church rejects the covenantal ideal of an international, hierarchical system of appeals courts, both ecclesiastical and civil, it necessarily adopts a rival judicial model: tribalism, regionalism, or nationalism. The biblical goal is world government under God's law, for both church and state. But until the church establishes this in practice, the quest for world civil government under common world law is messianic and a threat to freedom. There must be a common confession among men before there can be a lawful appeals court, and only one confession is valid: Trinitarianism.

17

THE PRESERVATION OF THE SEED

> *Ye shall keep my statutes. Thou shalt not let thy cattle gender with a diverse kind: thou shalt not sow thy field with mingled seed; neither shall a garment mingled of linen and woolen come upon thee.*
>
> LEVITIUS 19:19

The theocentric meaning of this passage is the meaning of the entire Book of Leviticus: God's boundaries must be respected.

A. The Test Case

Vern S. Poythress, a professor at Westminster Theological Seminary, stated that this passage is exegetically "the test case" or case law for theonomists.[1] He wished to know what theonomic principles of interpretation govern the New Testament's understanding of this Mosaic case law. As I shall argue, the primary hermeneutical principle that applies to this case law is the principle of the seed. This case law applied only in Mosaic Israel. It was an aspect of Jacob's messianic prophecy regarding Judah (Gen. 49:9–10). This law is indeed a test case for theonomy—and also for every other system of biblical interpretation.

This case law establishes three boundaries, each referring to a specific economic activity: animal husbandry, agriculture, and textiles. Except for the products of mining and metalworking, these were the primary categories of economic goods in the ancient world. Leviticus 19:19 established rules for all three areas. That world is long gone.

1. Vern Sheridan Poythress, "Effects of Interpretive Frameworks on the Application of Old Testament Law," *Theonomy: A Reformed Critique*, eds. William S. Barker and W. Robert Godfrey (Grand Rapids, Michigan: Zondervan Academie, 1990), p. 110.

Beginning no later than the fifteenth century, A.D., and accelerating rapidly in the late eighteenth century, a series of improvements in all three areas transformed the traditional economy of Europe. The modern capitalist system—with its emphasis on private ownership, the specialization of production, and the division of labor—steadily replaced the older medieval world of the common fields. This comprehensive economic transformation was accompanied by the violation of at least the first two, and seemingly all three, of the statutes of Leviticus 19:19.

This raises an important covenantal issue: the predictability of the external corporate blessings of God in history. A civilization-wide violation of these Levitical laws has produced (or at least has been accompanied by) an historically unprecedented increase in wealth: the West's agricultural revolution. We must therefore conclude one of three things: (1) the laws of Leviticus 19:19 are no longer binding because of a change in covenantal administration (my view); (2) these laws are still morally binding, but the covenantal link between corporate obedience and corporate blessings no longer holds in New Testament times (Kline's view);[2] or (3) these laws and God's corporate sanctions are still judicially binding (Rushdoony's view).[3]

B. The Industrial Revolution

We come now to the most important unanswered question in all of human history: *How did it come about that, beginning around 1800 in Great Britain, economic growth of about 2% per annum extended for the next two centuries*?[4] This has changed the world in ways inconceivable in 1800. It had done so by 1880. The rate of economic growth did not decrease after 1880. All this has taken place within the span of three generations, although long generations.[5]

The industrial revolution of the late eighteenth century visibly began to transform the traditional European economy. This is not to say

2. Meredith G. Kline, "Comments on an Old-New Error," *Westminster Theological Journal*, XLI (Fall 1978), p. 184.

3. R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), p. 255.

4. Deirdre N. McCloskey, *Bourgeois Dignity: Why Economists Can't Explain the Modern World* (Chicago: University of Chicago Press, 2010).

5. In December 2010, I interviewed Dr. Lyon Tyler, the grandson of John Tyler, who was President of the United States from 1841 to 1845, who was born in 1790, the first full year of George Washington's Presidency. Dr. Tyler's younger brother often utters this show-stopping one-liner: "As my grandfather said to Thomas Jefferson. . . ." He was interviewed by CBS television in February 2012.

that industrialism appeared overnight. It did not.[6] But to characterize England as the first industrial society would not have been accurate much before 1780. No later than 1820,[7] it was an appropriate designation, widely acknowledged. European observers recognized that something fundamentally new was taking place in England.

1. No Persuasive Explanation

The industrial revolution in England was not initially industrial. It was initiated by a series of transformations in the traditional sectors of agriculture,[8] animal husbandry,[9] textiles,[10] and metallurgy.[11] Improvements in metallurgy were made possible by improved coal mining.[12] Commerce and industry accelerated as economic output increased.[13] The revolution in steam power that was a characteristic feature of the industrial revolution was made possible by the improvements in metallurgy and coal, and the steam engine in turn made mining less expensive by pumping water out of the mines, which was essential for deep mining technology.[14] Machines were also applied to textile production.[15] But the reality was this: the industrial revolution took place after 1760 in England and after 1800 elsewhere because of prior transformations in agriculture, animal husbandry, textiles, and to a lesser extent, metallurgy and mining.[16]

The changes that first became visible in Britain were not confined to that island empire. The fundamental change—a change in property rights—had taken place throughout Western Europe for several centuries preceding the industrial revolution. The growth of towns, the growth of markets, and the growth of commerce had begun in Western Europe at least by the eleventh century, and this growth contin-

6. John U. Nef, *The Conquest of the Material World: Essays on the Coming of Industrialism* (New York: Meridian, 1964).

7. This date of origin was defended by economic historian Angus Maddison.

8. Herbert Heaton, *Economic History of Europe*, rev. ed. (New York: Harper & Row, 1948), pp. 310–14, 407–13. Heaton was one of my instructors.

9. *Ibid.*, pp. 404–7, 413–16.

10. *Ibid.*, pp. 314–16.

11. *Ibid.*, pp. 316–17.

12. *Ibid.*, pp. 317–19. In England, the wood supply began to shrink in the second half of the eighteenth century. The English had to rely more and more on coal, which it had in abundance. Brinley Thomas, "Toward an Energy Interpretation of the Industrial Revolution," *Atlantic Economic Journal*, VIII (March 1980).

13. *Ibid.*, pp. 319–28.

14. *Ibid.*, pp. 494–97.

15. *Ibid.*, pp. 489–93.

16. After 1750 in England, coal mining became significant.

ued. After the fifteenth century, the gunpowder revolution made defense, and therefore civil government, progressively the responsibility of the king and the nation rather than the local lord of the manor. Loyalties shifted accordingly, especially in the cities. Lampard writes: "The result was a new social division of labor in which property rights played a more decisive role than personal obligations in determining the division of the social product. Property rights as a claim on the material means of existence provided the institutional foundation, if not the psychological mainspring, for a commercial, acquisitive society."[17] This institutional transformation was not confined to Great Britain. Because of this long-term judicial extension of the concept of private ownership, once England had shown the way, the industrial revolution spread within two generations throughout Northern and Western Europe, and also to North America. By 1830, it was a common Northern European and North American phenomenon.

2. Population Growth

The most statistically relevant aspect of the era of the industrial revolution in England was the growth of population. In the year 1700, there were about five and a half million people in England and Wales. By 1750, it was six and a half million. By 1801, it was about nine million, an unprecedented increase of over 38% in half a century. By 1831, population had reached 14 million. This was not due to an increase in the birth rate.[18] It was also not due to immigration. On the contrary, during the eighteenth century, as many as a million people left Great Britain for the colonies.[19] The cause of the increase in population, 1750–1800, was an unprecedented reduction in the death rate.[20]

The question is: Was it the industrial revolution that produced this increase? This seems not to have been the case. A growth of population was also taking place in other European nations and in North America—nations that had not yet experienced an industrial revolution.[21] This points to the possibility that the slow but steady increase in agricultural productivity outside of England had been

17. Eric E. Lampard, *The Industrial Revolution: Interpretations and Perspectives* (Washington, D.C.: Service Center for Teachers of History, American Historical Association, 1957), p. 12.

18. T. S. Ashton, *The Industrial Revolution, 1760–1830* (New York: Oxford University Press, 1948), p. 4.

19. *Ibid*., p. 5.

20. Peter Razzell, *Essays in English Population History* (London: Caliban, 1993).

21. Ibid., p. 6. Cf. Shepard B. Clough, *The Economic Development of Western Civilization* (New York: McGraw-Hill, 1959), pp. 241–42.

more important in increasing Europe's population than England's industrial revolution. Agricultural productivity did not rise in England after 1750. England became an importer of food, selling its industrial products abroad to pay for these imports.[22] This means that other areas in Europe and the colonies were producing agricultural surpluses.[23] Successful agricultural techniques discovered in one region were imitated throughout Western Europe. This leads us back to the problem of Leviticus 19:19 and the corporate blessings of God.

3. Innovation

The fundamental change in the West's traditional economy was the appearance of widespread innovation. As never before in man's history, innovation began to reshape economic production. Entrepreneurs gained access to capital, and this capital allowed them to test their visions of the future in the competitive marketplace. Either they met consumer demand more efficiently than their competitors, thereby gaining short-term profits until other producers imitated their techniques, or else they failed. The winners were the consumers, whose economic decisions steadily became sovereign in the economy. Rosenberg and Birdzell have described the process as well as anyone: "The immediate sources of Western growth were innovations in trade, technology, and organization, in combination with accumulation of more and more capital, labor, and applied natural resources. Innovation emerged as a significant factor in Western growth as early as the mid-fifteenth century, and, from the mid-eighteenth century on, has been pervasive and dominant. Innovation occurred in trading, production, products, services, institutions, and organizations. The main characteristics of innovation—uncertainty, search, exploration, financial risk, experiment, and discovery—have so permeated the West's expansion of trade and the West's development of natural resources as to make it virtually an additional factor of production."[24]

Entrepreneurship was the key to the West's economic growth. Entrepreneurship is defined as the act of forecasting an inherently

22. Brinley Thomas, "Food Supply in the United Kingdom During the Industrial Revolution," in Joel Mokyr (ed.), *The Economics of the Industrial Revolution* (London: George Allen & Unwin, 1985), p. 142.

23. A surplus does not necessarily mean abundance, and surely did not mean this in the eighteenth century. A surplus is merely an asset that its producer regards as less valuable to him than the item he receives in exchange.

24. Nathan Rosenberg and L. E. Birdzell, Jr., *How the West Grew Rich: The Economic Transformation of the Industrial World* (New York: Basic Books, 1986), p. 20.

uncertain economic future, and then purchasing the services of men and capital over time in order to meet future consumer demand with the least expenditure of money or resources. Profits are an economic residual: whatever remains after all factors of production have been paid for. Profit stems from an entrepreneur's ability to forecast the future and meet its demands with less expenditure than his competitors. He can "buy low" today only because his competitors have not accurately forecasted future consumer demand; hence, they fail to bid up the price of today's scarce resources. The lure of profit is the motivating factor in the capitalist's decision to bear the uncertainty of producing future consumer goods.[25]

Innovation was the key to Europe's economic growth and social change, yet Leviticus 19:19 seems opposed to innovation, especially with respect to animal husbandry. There is to be no scientific interbreeding of animals, the law declares. The same restriction appears to hold true for the seeds of the field. If the key to Western prosperity has been economic and scientific innovation, then why did God establish laws for agriculture that restrict innovation in two major areas of modern agricultural output?[26] Are any of God's laws opposed to economic development? If so, which ones? And why?

C. Leviticus 19:19 and Economic Development

The transformation of the first three sectors of the European economy involved what appear to be explicit violations of Leviticus 19:19. Men developed new strains of plants, new breeds within species, and new combinations of textiles.[27] Agricultural productivity as a whole went through something like a revolution, 1600–1750. It accelerated vastly after 1800. By 1900, modern agriculture had become capital intensive and scientific. Hybrid seeds would soon become the foundation of this revolution in agricultural output. Gregor Mendel, a monk living in what became Czechoslovakia after World War I, discovered the laws of genetics in 1865 and published his findings in 1866, "Experiments With Plant Hybrids," in an obscure local journal.

25. Frank H. Knight, *Risk, Uncertainty and Profit* (Boston: Houghton Mifflin, 1921), Part 3; Israel M. Kirzner, *Competition and Entrepreneurship* (Chicago: University of Chicago Press, 1973).

26. The third law, prohibiting the wearing of mixed cloth, was a restriction on domestic use, not on output as such.

27. As early as the fifteenth century, Europe was benefiting from fustian: various cloths that were a combination of linen and cotton. Heaton, *Economic History*, pp. 215, 232–33.

This article attracted no attention. It was rediscovered in 1900, and his discovery began to reshape the modern world—a transformation that is now accelerating through genetic engineering.

Animal breeding was the least important factor in this agricultural transformation.[28] Wrote economic historian Peter Mathias: "The first main innovations were mainly in improving rotations and crops, seed-yields and strains in plants. Advances in animal breeding and the widespread substitution of the horse for the ox on the farm followed mainly in the wake of these improvements. This also was not accidental. The new animals demanded more efficient, better feeding. The old styles of unimproved stock remained a natural and appropriate response to poor pasture, waterlogged fields in the winter and scanty winter feed. Neither sheep nor draught-animals could serve a specialized function: the ox was eaten when it could no longer draw."[29]

The question must be asked: If the modern world had remained faithful to Leviticus 19:19, would we have escaped the narrow economic boundaries of the pre-modern world? Would we still be facing famines, starvation, poverty, high infant mortality rates, and all the other curses of poverty in the world prior to 1800? The answer is obvious: yes. So, the question arises: Was Leviticus 19:19 itself an economic curse? Second, is it still in force? If it is, then isn't our high per capita wealth today—seemingly a great blessing from God—judicially illegitimate?

More specifically, is the defender of free market capitalism forced into an untenable ideological position if he also defends the continuing authority of biblical law? Is the modern world's wealth an example of God's perverse blessing on antinomian Christianity and humanism, generation after generation? Or is the modern world's abandonment of Leviticus 19:19 legitimate because this case law was annulled by the New Covenant? If abandoning Leviticus 19:19 is legitimate, then does this fact itself constitute a theological justification for announcing the annulment of all of the Old Testament's case laws? This is a hermeneutical question. These questions deserve a serious response from theonomists.

Before we seek answers to these questions, another historical factor must be considered: the enclosure movement. There is no doubt that the genetic specialization of herds and crops was made possi-

28. Peter Mathias, *The First Industrial Nation: An Economic History of Britain, 1700–1914* (New York: Charles Scribner's Sons, 1969), pp. 78–80.

29. *Ibid.*, pp. 77–78.

ble economically by the steady enclosure of the medieval common fields, i.e., commonly tilled soil. When an owner could identify and legally defend his crops and herds on his land, he could better afford to experiment. He would be allowed to claim as his property any increased output. Common fields restricted such innovation. Only mutually agreed-upon innovations were permitted in common fields. Risks had to be low; any increased output had to be shared. Radical innovations were unlikely.

The enclosure movement began early in England, certainly by the thirteenth century.[30] It accelerated in the sixteenth century.[31] After 1760, Parliament authorized specific enclosure by private acts.[32] It was the steady partitioning of the common fields into private plots that made possible the so-called agricultural revolution in England. (A revolution that takes well over a century is evolutionary by modern standards, though not by pre-modern standards.) Professor Ashton wrote: "Progress in agriculture was bound up with the creation of new units of administration in which the individual had more scope for experiment; and this meant the parceling out and enclosure of the common fields, or the breaking up of the rough pasture and waste which had previously contributed little to the output of the village."[33] What was required, in short, was the establishment of new boundaries.

These legal boundaries established the private ownership of, and therefore personal responsibility over, the crucial means of production in an agricultural society: specific units of land. Because of these judicial boundaries, the fruits of one's capital and labor inputs could be more easily identified and claimed. This created economic incentives to improve the land and to introduce new crops, including the bleating crop known as sheep. Specialization of agricultural production and the resulting increase in output per unit of resource input increased both wealth and population in early modern England. This in turn led to the industrial revolution. My point is that the increasing precision of the legal claims of private owners of land, enforceable in civil courts, was the crucial change that made possible the agricultural revolution. The development of new crops and new breeds was the result, not the cause, of a social and legal revolution.

30. W. E. Tate, *The Enclosure Movement* (New York: Walker, 1967), pp. 60–61.
31. *Ibid.*, ch. 6.
32. *Ibid.*, p. 48.
33. Ashton, *Industrial Revolution*, p. 18.

In short, the new boundaries—geographical but especially legal—led to greater dominion.

D. Poythress' Challenge

As I mentioned earlier, Dr. Poythress challenged the defenders of theonomy to deal with the hermeneutical (interpretational) problems associated with Leviticus 19:19. He knew that theonomists are defenders of free market economics and modern capitalism. How, then, can theonomists escape the dilemma of Leviticus 19:19? He began his analysis-criticism of theonomy with a consideration of this verse. He regarded the exegetical problem of Leviticus 19:19 as exemplary of the theonomists' larger hermeneutical problem of distinguishing judicial continuity from discontinuity in the two testaments. This is why he called it "the test case."

1. Bahnsen vs. Rushdoony

Poythress' challenge is legitimate. He did raise important issues regarding the principles of biblical interpretation as they apply to the case laws of the Old Covenant. The command not to mix seeds is an expression of God's will, he correctly observes. It is therefore relevant to us as expositors. Does this particular case law express a universal standard, or is it uniquely a law of a distinct kingdom of priests (Ex. 19:6)? Was it part of Israel's laws of unclean foods? If it was part of Israel's priestly laws, how does it apply to the church as a royal priesthood (I Peter 2:9)? The Mosaic food laws are abolished, he correctly observes. Yet we are still not to mix good and evil. "How do we decide how Leviticus 19:19 applies to us?"[34] This is indeed the question.

Poythress said that Greg Bahnsen thought this law no longer needs to be observed literally.[35] Bahnsen was correct on this point, but Poythress was not persuaded by Bahnsen's general explanation. He cited Bahnsen: "We should presume that Old Testament standing laws continue to be morally binding in the New Testament, unless they are rescinded or modified by further revelation."[36] Poythress added: "Strict, wooden application of this principle would appear to imply the continuation of Leviticus 19:19 in force."[37] He noted in a footnote

34. Poythress, "Interpretive Frameworks," *Theonomy: A Reformed Critique*, p. 104.
35. Poythress does not cite a source for this assertion: *ibid.*, p. 106.
36. Greg L. Bahnsen, *By This Standard: The Authority of God's Law Today* (Tyler, Texas: Institute for Christian Economics, 1985), pp. 345–46.
37. Poythress, p. 106.

that Rushdoony argued that Leviticus 19:19 still applies, making all hybrids immoral.[38] Therefore, Poythress implied (correctly), those theonomists who reject Rushdoony's interpretation of Leviticus 19:19 need to produce specific evidence of a judicial discontinuity between the testaments that has annulled the literal application of this law. Poythress saids that this law can be regarded as part of the Mosaic food laws and hence abolished.

The Mosaic laws of separation no longer apply, Bahnsen said.[39] Poythress asked: "But how do we tell in practice what counts as a 'separation' principle? How do we tell what elements in Mosaic statutes are shadows and in what way are they shadows? How do we tell what is ceremonial and what is moral?"[40] We know that all the laws in Leviticus 19 are moral, he said. They functioned in some way to separate Israel from the nations around her. Second, he said, it is easy to argue that "keeping the types of seed distinct is a principle of separation based on creation and therefore of permanent validity. Third, the immediate context of Leviticus does not provide decisive information about the permanence of this statute."[41]

The more that Poythress looked at the specifics of this case law, the more its New Testament meaning seemed to get lost in the Mosaic law's shadows. This is true of almost every civil law in the Mosaic Covenant that he examined in detail, as he repeatedly demonstrated in his book, *The Shadow of Christ in the Law of Moses* (1991).

How can we faithfully solve these exegetical problems? He offered this exegetical imperative: "We are supposed to determine the classification of any statute by first understanding its primary function. Understanding its function reveals whether it primarily defines sin in a universally binding way or whether it primarily articulates the way of salvation in a way conditioned by the redemptive-historical context. We therefore determine in what respects it is permanently relevant to our redemptive-historical situation. The primary remaining difficulty is that it is not always easy to determine the primary function, particularly because several functions may sometimes be interwoven."[42]

I agree with this statement regarding the requirements of exegesis. It is therefore mandatory on me or on another defender of theonomy's hermeneutic to do what Poythress said must be done: (1) identify the

38. *Ibid.*, p. 106n. He cited Rushdoony, *Institutes of Biblical Law*, p. 255.
39. Bahnsen, *By This Standard*, p. 346.
40. Poythress, p. 106.
41. *Ibid.*, pp. 106–7.
42. *Ibid.*, pp. 108–9.

primary function of an Old Covenant law; (2) discover whether it is universal in a redemptive (healing) sense, or whether (3) it was conditioned by its redemptive-historical context (i.e., annulled by the New Covenant). In short: What did the law mean, how did it apply inside and outside Mosaic Israel, and how should it apply today? This exegetical task is not always easy, but it is mandatory. It is a task that has been ignored or denied by the vast majority of Christian theologians for almost two millennia.

The question Poythress raised is the hermeneutical problem of identifying covenantal continuity and covenantal discontinuity. First, in questions of covenantal continuity, we need to ask: What is the underlying ethical principle? God does not change ethically. The moral law is still binding, but its application may not be. Second, this raises the question of covenantal discontinuity. What has changed as a result of the New Testament era's fulfillment of Old Covenant prophecy and the inauguration of the New Covenant? A continuity—prophetic-judicial fulfillment—has in some cases produced a judicial discontinuity: the annulment of a case law's application. A very good example of this is Leviticus 19:19.

2. Hermeneutical Questions

I begin any investigation of any suspected judicial discontinuity with the following questions. First, is the case law related to the priesthood, which has changed (Heb. 7:11–12)? Second, is it related to the sacraments, which have changed? Third, is it related to the jubilee land laws (e.g., inheritance), which Christ fulfilled (Luke 4:18–21)?[43] Fourth, is it related to the tribes (e.g., the seed laws), which Christ fulfilled in His office as Shiloh, the promised Seed (Gal. 3:16)? Fifth, is it related to the "middle wall of partition" between Jew and gentile, which Jesus Christ's gospel has broken down (Gal. 3:28; Eph. 2:14–20)?[44] These five principles prove fruitful in analyzing Leviticus 19:19.[45]

43. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 6.

44. This application is especially important in dealing with Rushdoony's theory of "hybridization." See Appendix G.

45. There are several other hermeneutical questions that we can ask that relate to covenantal discontinuity. Sixth, is it an aspect of the weakness of the Israelites, which Christ's ministry has overcome, thereby intensifying the rigors of an Old Covenant law (Matt. 5:21–48)? Seventh, is it an aspect of the Old Covenant's cursed six day-one day work week rather than the one day-six day pattern of the New Covenant's now-redeemed week (Heb. 4:1–11)? Eighth, is it part of legal order of the once ritually polluted earth, which has now been cleansed by Christ (Acts 10; I Cor. 8)?

Let us ask another question: Is a change in the priesthood also accompanied by a change in the laws governing the family covenant? Yes. Jesus tightened the laws of divorce by removing the Mosaic law's exception, the bill of divorcement (Matt. 5:31–32).[46] Similarly, the church from the beginning has denied the legality of polygamy even though there is no explicit rejection of polygamy in the New Testament except for church officers: husbands of one wife (I Tim. 3:2, 12). Polygamy is implicitly rejected by the church because of the rule of law: an equal burden of divorce, husband vs. wife.[47] Did other changes in the family accompany the New Covenant's change in the priesthood? Specifically, have changes in inheritance taken place? Have these changes resulted in the annulment of the jubilee land laws of the Mosaic economy? Finally, has an annulment of the jubilee land laws annulled the laws of tribal administration?

E. The Traditional Three-fold Division

The Westminster Confession (1646) offers a tripartite division of biblical law: *moral*, *ceremonial*, and *judicial*. The moral law is said to be permanently binding (XIX:2). The ceremonial law is said to have been abrogated by the New Covenant (XIX:3). The judicial law is said to have applied only to national Israel and not to the New Covenant era, except insofar as a law was (is) part of something called the "general equity" (XIX:4). This formulation assumes that the judicial law applied only to Israel's "body politic."

This assumption raises a fundamental question: *What about the family*? The family is a separate covenantal administration, bound by a lawful oath under God. Which civil laws in Israel protected the family? To what extent have these laws been annulled or modified (perhaps tightened) by the New Covenant? And why?

I am here suggesting the need for the addition of another tripartite division: *civil*, *ecclesiastical*, and *familial*. James Jordan believed that the Confession's three-fold division applies across the boards to all three covenantal institutions. The moral law applies to all three: civil law, canon law, and family law. The ceremonial law applied to all

46. Here, I disagree with Bahnsen, who dismissed the relevance of the bill of divorcement, which he said "the Mosaic law mentioned only *in passing*. . . ." Greg L. Bahnsen, *Theonomy in Christian Ethics*, 3rd ed. (Nacodoches, Texas: Covenant Media Foundation, [1977] 2002), p. 101. The bill of divorcement was God's law for Mosaic Israel. Jesus annulled it.

47. Gary North, *Hierarchy and Dominion: An Economic Commentary on First Timothy*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 3.

three: oaths, sacraments, and marriage. The judicial law applies to all three: execution and restitution, excommunication, and divorce-disinheritance. He also noted that the Confession's tripartite division conforms to the five points of the biblical covenant model.[48] The ceremonial category is derived from points one and two: transcendence and hierarchy. The moral category is derived from point three: law. The judicial category is derived from points four and five: sanctions and succession.[49]

In short, the Westminster Confession's divisions can and should be applied to the Bible's tripartite covenantal-institutional divisions. There are continuities (fixed principles) and discontinuities (redemptive-historical applications) in all three covenantal law-orders. It is the task of the interpreter to make clear these distinctions and interrelationships. The church has been avoiding this crucial task (exegetical and applicational) since A.D. 70. The result has been the dominance of ethical dualism in Christian social theory: natural law theory coupled with pietism and/or mysticism.

F. Case Laws and Underlying Principles

Leviticus is the Bible's book of holiness. Boundaries are basic to biblical holiness. So, it is wise to approach passages that make little sense to the modern reader in expectation that in many of them, the issues can be clarified by discovering the underlying principle of holiness, which is a principle of separation.

A law governing agriculture, animal husbandry, and textile production had to be taken very seriously under the Mosaic Covenant. The expositor's initial presumption should be that these three laws constitute a judicial unit. If they are a unit, there has to be some underlying judicial principle common to all three. All three prohibitions deal with mixing. The first question we need to ask is the crucial one: What was the covenantal meaning of these laws? The second question is: What was their economic effect?

The fundamental judicial principle undergirding the passage is the requirement of separation. Two kinds of separation were involved: tribal and covenantal. The first two clauses were agricultural applications of the mandatory *segregation of the tribes* inside Israel until a unique prophesied *Seed* would appear in history: the Messiah. We

48. On the five points, see Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992).

49. Jordan's comments to author: Sept. 1992.

know who the Seed is: Jesus Christ. Paul wrote: "Now unto Abraham and his seed were the promises made. He saith not, And to seeds, as of many; but as of one, and to thy seed, which is Christ" (Gal. 3:16). The context of Paul's discussion is *inheritance*. Inheritance is by promise, he said (Gal. 3:18). The Mosaic law was given, Paul said, "till the seed should come to whom the promise was made" (Gal. 3:18). Two-thirds of Leviticus 19:19 relates to the inheritance laws of national Israel, as we shall see. When the Levitical land inheritance laws (Lev. 25) ended with the establishment of a new priesthood, so did the authority of Leviticus 19:19.

What was Paul attempting to prove? This: eternal life (the ultimate inheritance) is obtained by God's promise, not by God's law. God's law cannot impart life.[50] That is to say, the *means* of the recipient's eternal life is not obedience to God's revealed law. Paul was not, contrary to the argument of the Judaizers, attempting to set biblical law in opposition to the principle of inheritance by promise.[51] He was arguing that there is only one pathway to eternal life: by God's promise. It is this promise of *new life*, which is a *new inheritance*, that is central to Leviticus 19:19.

The second form of separation is more familiar: *covenantal separation*. The final clause of Leviticus 19:19 deals with prohibited clothing. This prohibition related not to separation among the tribes of Israel—separation within a covenant—but rather the separation of national Israel from other nations.

Because their frame of reference is not intuitively recognized, the first two clauses must occupy our initial attention.

G. Boundary of Blood: Seed and Land

The preservation of Israel's unique covenantal status was required by biblical law. The physical manifestation of this separation was circumcision. A boundary of blood was imposed on the male organ of reproduction. It was a sign that covenantal life is not obtained by either physical birth or through one's male heirs. Rushdoony wtote:

50. Moises Silva, "Is the Law Against the Promises? The Significance of Galatians 3:21 for Covenant Continuity," *Theonomy: A Reformed Critique*, p. 158.

51. Meredith G. Kline argued that this was Paul's contention: *By Oath Consigned: A Reinterpretation of the Covenant Signs of Circumcision and Baptism* (Grand Rapids, Michigan: Eerdmans, 1968), p. 23. Moises Silva said that Kline was incorrect on this point. *Theonomy: A Reformed Critique*, p. 160. In fact, Silva said, Kline's interpretation—the radical contrast between law and promise—is the same as the Judaizers' argument. *Ibid*., p. 163.

"Circumcision witnesses to the fact that man's hope is not in generation but in regeneration. . . ."[52] Unlike the ancient Greeks, who believed that a decent life after death could be obtained only through an unbroken series of rites performed by one's male heirs,[53] the Israelites knew that physical generation within the family unit has nothing to do with one's life after physical death. They had a doctrine of creation; the Greeks did not. This made a tremendous difference, as Fustel remarked so long ago: "[I]f we reflect that the ancients had no idea of creation, we shall see that the mystery of generation was for them what the mystery of creation is for us. The generator appeared to them to be a divine being; and they adored their ancestor."[54] Ancestor worship is not the message of the Old Covenant. The theology of the Old Covenant is creationist: *the Creator-creature distinction*. The Creator placed the generator, Adam, under a covenant. Adam served as the judicial representative of all his heirs. The generator then broke the terms of the covenant. Mankind is therefore under a curse, both in history and eternity. Ancestor worship has never been a temptation in Christian cultures. To escape Adam's legal status as a covenant-breaker, a man must re-covenant with God, a human response made possible by God's absolutely sovereign act of regeneration. The mark of this covenant in ancient Israel was circumcision. Ultimately, this separation was *confessional*. It involved an affirmation of the sovereignty of Israel's God.

1. Tribal and Family Boundaries

The nation of Israel was separated from non-covenanted nations by geographical and covenantal boundaries. Furthermore, tribal and family units separated the covenant people within Israel. This separation was always to be geographical, usually familial,[55] but never confessional. Every tribe confessed the same confession: "Hear, O Israel: The LORD our God is one LORD: And thou shalt love the LORD thy God with all thine heart, and with all thy soul, and with all thy might" (Deut. 6:4–5).[56] Israelites were not divided tribally because they had different ancestors, which was the case in ancient Greece. They were

52. Rushdoony, *Institutes*, p. 43.

53. Fustel de Coulanges, *The Ancient City: A Study on the Religion, Laws, and Institutions of Greece and Rome* (Garden City, New York: Doubleday Anchor, [1864] 1955), Book I.

54. *Ibid.*, I:IV, p. 36.

55. There could be inter-tribal marriages. Daughters received dowries rather than landed inheritance. Dowries could cross tribal boundaries; land could not.

56. North, *Inheritance and Dominion*, ch. 15.

divided tribally because they would have *different heirs*. Only one tribe would bring forth the promised Seed. *Tribal separation was based on differences in inheritance*.

Here I need to make something very clear. Unless stated otherwise, when I speak of seed laws and seed sanctions, I have in mind those laws and sanctions that applied exclusively to Mosaic Israel because of Jacob's prophecy of a *tribal boundary* around the coming Seed, the Messiah. There are broader aspects of God's covenantal seed laws: applications of God's covenantal promises to Abraham, such as population growth for faithfulness. These broad covenantal promises apply to the New Covenant sons of Abraham: the church, the Israel of God (Gal. 6:16). Because they apply across the two covenants, they were not exclusive to Mosaic Israel.

Israel's tribal divisions had political implications. They guaranteed localism. This localism of tribal inheritance was the judicial complement of the unity of national covenantal confession. Speaking of the case laws (Ex. 21–23) that follow God's delivery of the Ten Commandments (Ex. 20), political scientist Aaron Wildavsky remarked: "The social legislation that follows—laws protecting property, strangers, widows, the poor, on and on—is also predicated on acceptance of an authority that cannot be disobeyed. These boundaries, which emphasize keeping relationships whole, each partaking only of what properly belongs to its class, are of special social significance in a tribal society. Each tribe is to be kept whole. No tribe is to transgress against another. What better guarantee that tribal borders (so carefully demarcated before entry to Israel) will be sacrosanct is there than a system of classification—from food to clothing to marriage—that stresses wholeness and separation from top to bottom?"[57] Tribal boundaries were part of an overall structure of covenantal unity.

Family membership and rural land ownership in Israel were tied together by the laws of inheritance. A rural Israelite—and most Israelites were rural[58]—was the heir of a specific plot of ground because of his family membership. There was no rural landed inheritance apart from family membership. Unlike the laws of ancient Greece, Mosaic law allowed a daughter to inherit the family's land if there was no son. But there was a condition: she had to marry within the tribal unit

57. Aaron Wildavsky, *The Nursing Father: Moses as a Political Leader* (University, Alabama: University of Alabama, 1984), p. 97.

58. This is not to say that God intended them to remain rural. On the contrary, the covenantal blessing of God in the form of population growth was to move most Israelites into the cities as time went on. See chapter 24:G.

(Num. 36:8).[59] The landed inheritance could not lawfully move from one tribe to another (Num. 36:9).[60] A man's *primary inheritance* in Israel was his *legal status*: freemanship and congregation membership. This was part of his family name.

2. Family Land and Family Name

Land was tied to name. The land of Israel was God's; His name was on it. The family's land was tied to the family's name. So important was this principle of inheritance that a brother who lived on the family's land with a married brother who died without children had to obey the levirate marriage law and procreate children through the brother's widow (Deut. 25:5–10).[61] Their children would inherit the family's name (Deut. 25:6). To refuse to perform this requirement was to be disgraced publicly. The wife could challenge the brother publicly, announcing before the elders, "My husband's brother refuseth to raise up unto his brother a name in Israel . . ." (Deut. 25:7).

Tamar became a childless widow when Er, her evil husband, was killed by God (Gen. 38:7). Judah sent Onan, now his oldest son, to become her levir husband. Onan refused to procreate a child with her. He deliberately spilled his seed (*zerah*) on the ground, "lest that he should give his seed to his brother." This was not just an act of defiance against Tamar; it was a ritual act of defiance against God. God killed him for this ritual act (v. 10).

When Tamar bore twins to Judah, she named the second-born son Zarah. He was the child who had the scarlet thread around his wrist, who had almost been the firstborn (v. 30). He disappears after Genesis 46:12. He was not Judah's seed of the promise. His brother Pharez became the line of Judah into which Ruth the Moabite married (Ruth 4:12). So, the covenant line of Judah led to the kingly line of David through Ruth, for Boaz performed the office of the levir when Naomi's nearest of kin refused for fear of losing his inheritance (Ruth 4:6). David is listed as the tenth generation after Pharez (Ruth 4:18–22), making David's generation the first generation of Judah's line that could become citizens (Deut. 23:2) and lawfully become judges, for Pharez had been a bastard born illegally of Judah.[62]

59. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), ch. 22.

60. The exception was when rural land that had been pledged to a priest went to him in the jubilee year if the pledge was violated (Lev. 27:20–21). Chapter 36.

61. North, *Inheritance and Dominion*, ch. 64.

62. On the incomplete genealogy of the Davidic line, see Gary North, *Disobedience*

The name Pharez comes from the Hebrew word for breach. God placed him as the head of the family line. Pharez was born abnormally, but he nevertheless inherited: sovereign grace.

3. Till Shiloh Come

Jacob had promised Judah that his blood line would rule until the promised heir (Shiloh) should come (Gen. 49:10). Thus, the integrity of each of the seed lines in Israel—family by family, tribe by tribe—was maintained by the Mosaic law until this promise was fulfilled. The mandatory separation among the tribes was symbolized by the prohibition against mixing seeds. The prohibition applied to the mixing of seeds in one field. The field did not represent the whole world under the Mosaic Covenant; *the field represented the Promised Land*. The husbandman or farmer had to create boundaries between his specialized breeds and between his crops.

The boundaries separating animals had to be there because of the normal sexual bonding that takes place among pairs within a species. So, too, was it normal for members of the same covenantal confession to marry. But Mosaic law established an *artificial barrier* between the tribes. This artificial barrier was both legal and economic: *landed inheritance*. Tribal separation decentralized Israel's economy and politics. The Levites were scattered across the land, living in walled cities or in Levitical cities in which the jubilee land laws did not apply (Lev. 25:29–30, 32–34). Levites provided religious leadership, including judicial advice, for every tribe. But the Levites had no inheritance in the land, so they could not buy up rural landed property or gain it through intermarriage, thereby centralizing the economy. Neither could the king, as the conflict between Ahab and Naboth indicates (I Kings 21). There was to be continuity of theological and judicial principles, one tribe to another. Plots of land could not be merged beyond the jubilee. Kings and Levites—the national enforcers of God's law—could not pursue judicial centralization through either land purchase or intermarriage. This prevented what Pharaoh and the priests had done under Joseph (Gen. 47:20–22)—a curse on Egypt consistent with Egypt's theology of the divine Pharaoh.[63]

Thus, the prohibition against the interbreeding of animals and the

and Defeat: An Economic Commentary on the Historical Books (Dallas, Georgia: Point Five Press, 2012), ch. 11:G.

63. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas Georgia: Point Five Press, [1982] 2012), ch. 32:C.

mixing of seeds had to do with *keeping separate artificially what is normally mixed*. Fenced family fields inside Israel reflected the nation's tribal boundaries. Such tribal separation was abnormal, not normal. What is abnormal is the separation of breeds within a species and the separation of crops within a single fenced field. What is also abnormal is the tribal separation of a biblically covenanted people. It was this abnormality that was essential to the maintenance of the tribal structure in Israel. Inheritance in the land was by tribal separation, but only until Shiloh at last arrived. The internal boundaries would disappear once Shiloh came.

4. Inheritance: Generation vs. Adoption

Another application of the seed laws was the prohibition of a foreign eunuch's access to citizenship (Deut. 23:1). If a man was cut off in the stones, he was genetically cut off from the possibility of lawful inheritance in the land. He had no genetic future; he could therefore not become a citizen of Israel. Not even the laws of adoption could overcome this ecclesiastical and civil law.

Under the New Covenant, the laws of adoption have annulled this Mosaic law. The obvious New Testament example of its annulment is the encounter of Philip with the Ethiopian eunuch. As soon as the eunuch professed faith in Jesus Christ, Philip baptized him (Acts 8:37–38). Covenantal inheritance in the New Testament is by public profession of faith, public baptism, and public obedience; it is not by genetics. Inheritance is by adoption, not by biological reproduction. This is a testimony to the fact that *covenantal faithfulness is more fundamental in history than biology*. It always has been, as God's adoption of Israel as a nation testified (Ezek. 16). But because of the *historic* importance of the prophesied Seed of Israel, the seed laws predominated over the adoption laws in the Mosaic economy.

The advent of Jesus Christ restored adoption to visible primacy. "But as many as received him, to them gave he power to become sons of God, even to them that believe on his name" (John 1:12). *With the death of Jesus Christ and the annulment of the Old Covenant, the Levitical seed laws ceased*. They were not resurrected with Christ. There was no further need to separate seeds within Israel; the prophecy had been covenantally and historically fulfilled. So had the Levitical land laws (Lev. 25). *The mandatory judicial link between physical seed and land ceased for all time*. Those family and tribal boundaries within the land, like the boundaries establishing the judicial holiness (separateness)

of national Israel from the world, were covenantally annulled by the New Covenant. The new wine of the gospel broke the old wineskins of Israel's seed laws.

Nowhere is this clearer than in the letter to the Hebrews. It begins with an affirmation of Christ's inheritance: God the Father "Hath in these last days spoken unto us by his Son, whom he hath appointed heir of all things, by whom also he made the worlds" (Heb. 1:2). Christ's inheritance is expressly tied to His name: "Being made so much better than the angels, as he hath by inheritance obtained a more excellent name than they" (Heb. 1:4). Jesus is the high priest of an unchangeable priesthood (Heb. 7:24). His priesthood, because it is after the order of Melchizedek, is superior to the Levitical priesthood (Heb. 7:9–11). This has changed the Levitical laws: "For the priesthood being changed, there is made of necessity a change also of the law" (Heb. 7:12). This includes the laws of tribal separation. Jesus, as high priest, has transcended the Mosaic Covenant's laws separating the tribes of Israel: "For it is evident that our Lord sprang out of Juda; of which tribe Moses spake nothing concerning priesthood" (Heb. 7:14). Because He transcended the tribal boundary laws, He also transcended the land laws and seed laws. A new priesthood now inherits the earth.

H. Sacrifice: Seed vs. Land

The connection between land and seed in the ancient world was very close, not only judicially but also ritually. When the Israelites came into the land of Canaan, they were told by God that they must not sacrifice their children to the gods of the land. They were not permitted to pass their children through any ritual fire. "And thou shalt not let any of thy seed pass through [the fire] to Molech, neither shalt thou profane the name of thy God: I [am] the LORD" (Lev. 18:21). Molech was the god of the Ammonites; it was identified as an abomination (I Kings 11:7). Notice that God called such a practice a profanation of His name (Lev. 20:3). The nation's name, the family's name, and God's name were all interlinked ritually.

Why would anyone have done such a thing? In a civilization such as the West's, which was originally built on judicial theology rather than magic, such a ritual act seems irrational. But sacrifices must be made in this life. Men understand this principle, which is why they speak of sacrificing the present for the future. The ancient Canaanites sent their children through the ritual fires in order to identify

the survivors as the heirs. Also, by placating Molech, they hoped to gain external blessings, which meant primarily agricultural blessings. *By literally sacrificing their children, they hoped for increased agricultural fertility*. This is why we refer to Canaanitic religions as fertility cults.

Specialists in ancient religion and mythology are aware of origins of the this theology of child sacrifice. Children were regarded as innocent and therefore suitable to placate Molech, identified as Kronos,[64] and therefore Saturn, the god of the original golden age and regenerative chaos, cannibal of his own children and father of Jupiter/Zeus.[65] The Phoenicians carried this fiery worship throughout the Mediterranean coasts. It became institutionalized in Carthage.[66] Acton wrote that such worship flourished where astrology was supreme, "and where the sun was worshipped as the life-giver and the life-destroyer—the god who renewed the earth in spring, burnt it up in summer, and himself suffered in winter, to be restored and to restore the world in spring. These two powers of production and destruction were gathered up in Astarte, the goddess of fertility, and Kronos, the devourer of his own offspring."

What was the origin of this theology of human sacrifice? Acton knew what only a handful of academic specialists today have ever heard of: the magical link between bloody ritual and cosmic regeneration. Acton wrote: "The union of bloodshed and licentiousness had one of its roots in the physical philosophy of the old world, which considered generation and destruction, like night and day, to be necessary and mutually-produced successions of being, caused by the eccentric motion of the *primum mobile* in the ecliptic."[67] The slow "wobble" of the axis of the rotating earth is the reason why the pole stars change every few thousand years during the what the ancients called the Great Year: about 26,000 solar years. This wobbling axis is the source of the legend of Hamlet's cosmic mill: the wobbling universe of stars and constellations, i.e., the precession of the equinoxes.[68] This cosmology explained the fall of man and the loss of Eden as the result of the disruption of the heavens. It made personal regeneration

64. John Emerich Edward Dalberg-Acton, "Human Sacrifice" (1863), *Essays in Religion, Politics, and Morality*, in *Selected Writings of Lord Acton*, 3 vols. (Indianapolis, Indiana: LibertyClassics, 1988), III, p. 405.

65. Giorgio de Santillana and Hertha von Dechend, *Hamlet's Mill: An essay on myth and the frame of time* (Boston: Gambit, 1969), pp. 146–48.

66. Acton, "Human Sacrifice," p. 407.

67. *Ibid.*, p. 408.

68. Santillana, *Hamlet's Mill*, pp. 58–59.

and social regeneration the effects of ritual rather than ethical transformation. Fertility, sexual license, and human sacrifice were linked together cosmically. The religious practices of classical and Hellenic Greece, as well as Rome's Republic and Empire, relied on human sacrifice.[69] The origin of Rome's gladiatorial battles to the death lay in this theology of sacrifice.[70]

The religion of Israel was in open conflict with all fertility cult religion. God warned Israelites against putting their hope in the land or the gods of the land. The seed laws of Leviticus 19:19 were an aspect of this prohibition. These laws restricted genetic experimentation in Israel. There would be no specialized animal breeding; there would be no mixing of seeds in any field. Why not? For the sake of the inheritance, i.e., for the *promise*. This promise was more important than any hoped-for productivity gained through genetic experiments. Families were required to forfeit some degree of potential wealth for the sake of faithfulness to the promise. The preservation of each family's seed (i.e., *name*) was more important than increased agricultural output. *The religion of Israel was thus in complete opposition to the fertility cults of Canaan*. This opposition imposed economic costs on the Israelites.

Leviticus 19:19's prohibition of genetic experimentation was an aspect of the preservation of the national covenant, which included the tribal boundaries. In the *economic trade-off* between the *land's seed* (increased wealth from genetic experimentation) and the *promised Seed* (which required the maintenance of tribal boundaries), the promised Seed had priority. Jacob's prophecy was more important than agricultural production. *We must interpret the seed laws as ritual laws*. Israel had to sacrifice some degree of wealth in order to honor ritually the principle of the promised Seed. Far better this sacrifice than passing one's children through the fire: ritually honoring the family's land more than the family's seed.[71]

In one particular, there was still the sacrifice of a son. Levi served as the firstborn son in Israel (Num. 3:12).[72] This means that Israelite families were not required to set apart (sanctify) their firstborn sons for service to God at that first numbering of the nation, as would otherwise have been required (Ex. 13:2). The other tribes did not have to make a payment to the priests except for money in place of the

69. Acton, "Human Sacrifice," pp. 412–18.
70. *Ibid.*, p. 417.
71. Chapter 20.
72. North, *Sanctions and Dominion*, ch. 4:A.

273 firstborn in excess of the Levites' 22,000 members (Num. 3:39, 46–47). The tribe of Levi became a lawful substitute.[73] God claimed the Levites as His special possession (Num. 3:45). They could not usually inherit rural land in the Promised Land. They were disinherited because they were like dead men (sacrifices). They were judicially holy (set apart). A boundary was placed around them in the Levitical cities, where the jubilee laws did not apply (Lev. 25:32–34). Levi was separated until Shiloh came.

Leviticus 19:19 is part of the Mosaic Covenant's laws governing the preservation of the family's seed (name) during a particular period of history. It was an aspect of the necessary preservation of genetic Israel. The preservation of the separate seeds of Israel's families was basic to the preservation of the nation's legal status as a set-apart, separated, *holy* covenantal entity. This principle of separation applied to domesticated animals, crops, and clothing.

I. Animals

Let us begin with the law prohibiting the mixing of cattle. Did this refer to bovines only? The Hebrew word is transliterated *behemah*, the same word that we find transliterated as behemoth in Job 40:15. In every reference to cattle in Leviticus, this Hebrew word is used. Did this law apply only to cattle? What about other domesticated species? A case can be made both ways. Nevertheless, I believe that *cattle* in this case refers to *all domesticated animals*. The parallel prohibition against mixing crops was genetic. Also, the Hebrew word *behemah* is used generically for all domesticated animals in the laws against bestiality (Lev. 18:23; 20:15). This prohibited activity was less likely to be performed with bovines than other, smaller beasts.

Another reason for translating *behemah* broadly as domestic animals in general is found in the law identifying the Levites as a special tribe, God's firstborn. In setting aside the Levites as a separate, holy tribe in the midst of a holy nation of priests, God also designated their animals as representatives of all the animals in Israel. At that first census of Israel, the people did not have to make a payment for the firstborn animals as part of the required sacrifice of the firstborn males (Num. 3:41, 45). The Hebrew root word for cattle in this verse is *behemah*. The payment to the temple in Numbers 3:49–51 does not mention a payment for the animals. This absence of payment indi-

73. *Ibid.*, ch. 4:D.

cates that the "cattle" of the Levites represented all the domesticated animals, not just bovines, so no payment was owed.[74]

The case law governing the interbreeding of animals is analogous to the case law prohibiting owners from muzzling oxen as they worked the fields (Deut. 25:4). The prohibition against muzzling an ox while it treads out the corn applies in principle to paying appropriate wages to people (I Cor. 9:9–12)[75] and honoring church officers (I Tim. 5:17–18).[76] In these case laws, animals are representative of human beings. In short, *the animals of Leviticus 19:19 were representatives of the nation of Israel as a holy people*. Identifiable breeds were to be kept separate from each other, just as Israel's tribes were.

The plain teaching of the passage indicates that the breeds of animals that were common in the Promised Land at the time of the conquest were to be allowed to reproduce. The breeds had to be kept separate, however. There was to be no active breeding of new specialized breeds in order to produce animals that had different characteristics from the land's original breeds. There was to be no man-directed genetic manipulation of animals in Mosaic Israel.

The Mosaic law prohibiting the interbreeding of animals was never part of the creation mandate. It was a temporary law that illustrated an eschatological principle: the fulfillment of God's promise to Abraham regarding the world's deliverance through the Seed. This event had not yet come to pass in Mosaic Israel. The Mosaic seed laws did not in any way reduce the authority of the promise to Abraham; they merely governed the administration of rural families' landed inheritance until that promised Seed should come. The authority of God's promise established the authority of the promised Seed. The Seed *was* the promise in Old Covenant Israel. Jesus Christ fulfilled that promise. In doing so, He annulled the Levitical seed laws. These laws no longer had any eschatological purpose. Their only purpose in Mosaic Israel was eschatological.

The technical possibility of mixing breeds always exists. Mixing will happen without active interference from man. If members of a species are not deliberately kept separate, they will breed together.

74. This argument is an argument from silence: the absence of any reference to a payment for the firstborn animals. The text specifically mentions payment for 273 firstborn sons. It does not mention another payment.

75. Gary North, *Judgment and Dominion: An Economic Commentary on First Corinthians*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 11.

76. Gary North, *Hierarchy and Dominion: An Economic Commentary on First Timothy*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 7.

Thus, to preserve an existing breed genetically, a husbandman must take active steps to keep the breeds separated. He must either build fences or hire drovers to keep them apart.

A law prohibiting random intermixing of breeds really was superfluous. No profit-seeking owner would allow a pair of specialized breeds to intermix randomly. Such progeny would rarely command the same price or produce the same level of output as the progeny of the separate breeds. Even if a more productive offspring would occasionally be produced, this would do the owner no long-term economic good, for he was prohibited from interbreeding the resulting pairs. So, this law was really a prohibition against scientific breeding aimed at producing a new breed with unique characteristics. It meant that whatever common animals existed when they entered the land— "mongrels"—could mix freely with other similarly undistinguished animals.

What if the free market began to register demand for a particular kind of animal? This demand would have applied to: (1) a breed that they had brought with them into the Promised Land, (2) a breed already within the land when they invaded, or (3) an imported breed from outside the land after they conquered it. These breeds would have been the modern equivalent of registered animals.

The husbandman would have kept these animals separate from other existing breeds. Obviously, he would have had an economic incentive to do this. To sell into a specialized market, his animals would have had to be kept away from others not of the same type. So, this law commanded what the economy would have required anyway: separation. *It would have applied only to owners who had begun programs of experimental breeding to produce a separate breed*. The preservation of an existing breed was lawful.

The seed of each breed had to be separated. To obey this law as it applied to "non-mongrels," an Israelite would have had to construct a holding area or pen for each specialized breed. This means that a specific seed or line was associated with a specific place at any point in time. Owners could lawfully move animals to new locations, but there was always to be a geographical boundary associated with each breed (seed). *This boundary established a connection between land and seed*. This connection was mandatory for both man and beast.

J. Crops

The law stipulated, "thou shalt not sow thy field with mingled seed." This means that a specific field had to be devoted to a specific crop

at any given point in the growing season. Like the pens for animals, the seeds of the crop had to reside in a particular place. Seed and land had to be linked.

Policing this law would have been easy. The person who planted two crops in an organized way within the confines of a specific field (boundary) would soon face the visible evidence of his violation: rows of mixed crops. a priest or a Levite could easily identify a violation.

Modern grain farming tends to be mono-crop agriculture: one crop in a field at a time. This specialization of agriculture has been economically efficient in terms of reducing the cost of harvesting the crop and also by maximizing output per unit of land. Still, there are unique costs associated with mono-crop agriculture. These crops are more vulnerable to blight and insects. We have learned through experience that the mixing of seeds in a field can be beneficial, especially in terms of resistance to pests and disease.[77] It takes less insecticide to produce a large crop by relying on a mixture of plants to defend a particular field. So, it may be that for less specialized economies, mixed-crop agriculture is more productive. Yet this practice was prohibited in Mosaic Israel.

What about genetic experimentation? The same judicial prohibition applied. There could be no lawful, systematic mixing of seeds. An Israelite was not to apply his ingenuity to the creation of new species of plants. Hybrid animals and seeds were illegal to develop. They could be purchased from abroad, but since most hybrids are either sterile (e.g., mules) or else they produce weak offspring, there was little economic incentive to import hybrids except as a one-generation consumer good. Such imports were legal: *with no "inheritance" possible, there was no symbolic threat from hybrids*. A hybrid was not prohibited because of its status as a hybrid. It was illegal to produce them deliberately because of the prohibition against mixing seeds, which was fundamental. The practice of seed-mixing was illegal, not hybrids as such.

This law did not apply to the familiar practice of grafting the branches of one species of fruit tree into the trunk of another.[78] Leviticus 19:19 was specific: it dealt with seeds planted in a field, not with branches grafted into an adult tree. The tree's trunk is the primary agent, symbolic of the covenant itself. The branch would become part

77. Roger B. Yepsen, Jr. (ed.), *Organic Plant Protection* (Emmaus, Pennsylvania: Rodale, 1976), ch. 5: "Protecting Plants with Other Plants."

78. Rabbinic opinion on this verse forbade grafting. See Nachmanides (Rabbi Moshe ben Nachman, the Ramban), *Commentary on the Torah: Leviticus* (New York: Shiloh, [1250s?] 1974), p. 295. He cited the Talmud: *Kiddushin* 39a.

of the older tree. It was not a competing seed. The removed branch was "adopted" by the older tree. This was always a legal option in Israel, as the marriages of Rahab and Ruth indicate. The technique of grafting was symbolic of conversion, which was why Paul used this imagery as the archetype in discussing the fate of the old branch of Israel and the grafting in of the gentiles (Rom. 11:17–21).[79] So, tree grafting symbolized covenantal inclusion—adoption by conversion and confession—not tribal mixing.

Some crops do better when mixed, such as fodder. In the modern-day State of Israel, Jewish farmers deal with this problem in a Rabbinically approved way. One man makes a pile of seeds in a public place and covers it with a board. A second person piles up a second seed crop on top of the board. A third person comes along and announces, in front of witnesses, "I need this board." He removes it. Finally, a fourth man comes along and is instructed to sow the field with the now-mixed crop.[80]

K. Clothing

Mixed clothing made of linen and wool was under a different kind of prohibition. It was illegal to wear clothing produced by mixing these two fibers. There was no law against producing mixed cloth for export, however. Why was wearing it wrong but exporting it allowed? In biblical law, if something is not prohibited, it is allowed.

1. Mixed Fibers

No other form of mixed-fiber clothing was prohibited by the Mosaic law. Did this case law by implication or extension prohibit all mixed fibers? This seems doubtful. It would have been easy to specify the more general prohibition rather than single out these two fibers. Deuteronomy's parallel passage also specifies this type of mixed fabric (Deut. 22:11). Then what was the nature of the offense? Answer: to wear clothing of this mixture was to proclaim symbolically the equality of Israel with all other nations. This could not be done lawfully inside Israel. But, as we shall see, it could be done by non-Israelites outside Israel.

Linen was the priestly cloth. The priests were required to wear linen on the day of atonement (Lev. 16:30–34). Linen was to be worn

79. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 8.

80. Israel Shahak, *Jewish History, Jewish Religion: The Weight of Three Thousand Years* (Boulder, Colorado: Pluto Press, 1994), p. 45.

by the priest in the sacrifice of the burnt offering (Lev. 6:10). During and after the Babylonian captivity, because of their rebellion in Israel, the Levites and priests were placed under a new requirement that kept them separate from the people: they had to wear linen whenever they served before the table of the Lord. They had to put on linen garments when they entered God's presence in the inner court, and remove them when they returned to the outer court. No wool was to come upon them (Ezek. 44:15–19). The text says, "they shall not sanctify the people with their garments" (Ezek. 44:19). Priestly holiness was associated with linen.[81]

Additionally, the laws of leprosy were associated with linen and wool. The test to see whether leprosy was present was to examine wool or linen garments (Lev. 13:47–48, 52, 59). The question arises: Why linen and wool? Why were they singled out?

2. No Sweat

Wool is produced by sheep, while linen is a product of the field: flax. Linen was used by the high priest in the sacrifice of the burnt offering (Lev. 6:10). Why? It probably had something to do with sweat as man's curse (Gen. 3:19). Linen absorbs moisture. The priest was required to wear a garment of pure linen. He was therefore to wear a garment that absorbed sweat. His judicial covering was to reduce the amount of sweat on his body. Wool, in contrast, is produced by the same follicle that produces sweat in a sheep.[82] Wool tends to retain human sweat on the wearer's body.

Clothing covers a person. This is symbolic of God's judicial covering of Adam and Eve. They wanted a covering of the field (fig leaves); God required a covering from a slain animal. This means that to mix

81. On this point I disagree with James Jordan and all of the authorities he cited, both gentiles and Jews. Their argument is this: because the high priest's clothing was colored, it had to be a mixture of wool and linen because linen is difficult to dye. Jordan cited Exodus 28:5–6. But this passage says that even the thread had to be linen (v. 6). I can find no passage that indicates that the priests wore anything but linen when they brought sacrifices before God. This includes Exodus 39:29, which Jordan also cited. This is unquestionably the case in the post-exilic period. I think it is safer to go with the language of the texts than with a theory of ancient dyeing techniques. Jordan and several of the authorities he cited claim that the mixture of fabrics was itself holy, so non-priests could not lawfully wear such mixed clothing. I argue the opposite: pure linen was holy, so the wool-linen mixture was forbidden. See James Jordan, "The Law of Forbidden Mixtures," *Biblical Horizons Occasional Paper No. 6*, pp. 3, 6. In any case, the issue was holiness. It had to do with the separation of priests from non-priests: within the land of Israel and between the priestly nation of Israel and the non-priestly nations.

82. "Wool," *Software Toolworks Illustrated Encyclopedia* (Grolier Encyclopedia) (1990).

wool and linen was to mix ritual opposites. *The wearing of such a mixture was symbolic of the mixing of priests and non-priests.* It was all right for a nation of non-priests to wear such a mixture; it was prohibited to a nation of priests. This is why the export of this cloth was not prohibited. The recipient nations had no priestly status in God's covenant, and hence the mixture would have had no ritual meaning.[83] God did not threaten non-priestly nations with negative sanctions if they violated some ritual requirement for priests in Israel. Their sacraments had no power to invoke God's sanctions, positive or negative. Had some group or nation been circumcised under God, then these clothing restrictions would have applied.

Inside a priestly nation, such a mixture was a threat to the holiness of the priests when they brought sacrifices before God. As between a priestly nation and a non-priestly nation, this section of Leviticus 19:19 symbolized the national separation of believers from unbelievers. Deuteronomy 22:11 is the parallel passage: "Thou shalt not wear a garment of divers sorts: [as] of wool and linen together." Its immediate context is another case law, one which we know from Paul's epistle to the Corinthians refers to people, not just animals: "Thou shalt not plow an ox and an ass together" (Deut. 22:10). Paul wrote: "Be ye not unequally yoked with unbelievers: for what fellowship hath righteousness with unrighteousness? and what communion hath light with darkness?" (II Cor. 6:14). It is legitimate to apply the principle of "unequal covenantal yoking" to Leviticus 19:19c, but *only* insofar as it applied to *national* separation.

Inside the boundaries of Israel, however, the law symbolized sacrificial separation: the tribe of Levi was set apart as a legal representative before God. In this *intra-national* sense, this law did have a role to play in the separation of the tribes. This is why it was connected to the two seed laws in Leviticus 19:19.

3. A Change in the Priesthood

It is still prohibited to mix covenantal opposites in a single covenant: in church, state, and family. Is the wearing of this mixture of these two fabrics still prohibited? No. Why not? Because of the change in the priesthood. We must return to Galatians 3.

Our new covering is Jesus Christ. Paul wrote: "For as many of you as have been baptized into Christ have put on Christ. There is neither Jew nor Greek, there is neither bond nor free, there is neither male

83. That is to say, the sacramental sanctions were absent.

nor female: for ye are all one in Christ Jesus. And if ye be Christ's, then are ye Abraham's seed, and heirs according to the promise" (Gal. 3:27–29). Here it is again: inheritance is by God's promise to Abraham. The sign of this inheritance is no longer circumcision; it is baptism. This is our new clothing. The old prohibition against wearing a mixed cloth of wool and linen is annulled. The new priesthood is under a new covering: Jesus Christ.

Because of Jesus' death, resurrection, and ascension, the curse of the ground no longer threatens us ritually, only economically. Thus, man's sweat is no longer a matter of ritual purity. The prohibition against wearing a mixed cloth of wool and linen is no longer nationally relevant: priestly vs. non-priestly nations. There are no longer any negative sanctions attached to this unique mixture of fabrics.

The ritual curse of the ground was finally removed at Jesus Christ's resurrection. The land is no longer under ritual sanctions, nor does it act as an agent of God, vomiting out covenant-breaking inhabitants, as the Promised Land did with the Canaanites (Lev. 18:28). The vomiting land no longer threatens us as it threatened the Israelites (Lev. 20:22).[84] Jesus Christ vomits out lukewarm churches (Rev. 3:16).[85]

The physical and economic curse is being progressively removed in history, including the curse of sweat. Men increasingly do not work by the sweat of their brows. The air conditioner is one of the wonders of modern life, enabling men to escape from the oppression of heat and humidity. This enables them to work more efficiently. Workers who work indoors—the primary place of work in modern economies—in tropical climates can now compete with workers in temperate climates.

L. The Question of Jurisdiction

Was this a civil law or an ecclesiastical law? To identify it as a civil law, we should be able to specify appropriate civil sanctions. The text mentions none. The civil magistrate might have confiscated the prog-

84. Chapter 10.

85. For this reason, I believe that the predictable relationship between covenantal cursings and blessings is no longer applicable to floods and earthquakes. God's covenantal blessings and cursings are imposed by men as God's covenantal agents in New Covenant history. Men now exercise dominion over a creation that no longer acts as a covenantal agent. This is another reason why I am a preterist: the earthquakes described in the Book of Revelation completed God's judgment against national Israel. These land-applied, covenantally predictable curses are no longer an aspect of the New Testament judicial order. They ceased being covenantally predictable in A.D. 70.

eny of the interbreeding activities, but then what? Sell the animals? Export them? Kill them and sell the meat? These were possible sanctions, but the text is silent. What about mingled seed? Was the entire crop to be confiscated by the state? Could it lawfully be sold? Was it unclean? The text is silent. This silence establishes a *prima facie* case for the law as ecclesiastical.

The mixed clothing law refers to a fact of covenantal separation: a nation of priests. The Israelites were not to wear clothing made of linen and wool. This symbolic mixing testified to the legitimacy of mixing a nation of priests and a common nation. This is why wearing such mixed cloth was prohibited. This aspect of the case law's meaning was primarily priestly. Again, the *prima facie* case is that this was an ecclesiastical law and therefore enforced by the priesthood.

The maximum ecclesiastical sanction was excommunication. This would have marked the law-breaker as being outside the civil covenant. He faced the loss of his citizenship as well as the disinheritance of his sons unless they broke with him publicly. Instead of a mere economic loss, he faced a far greater penalty. This penalty was consistent with the status of this law as a seed law. The prohibition of mixed seeds was an affirmation of tribal separation until Shiloh came. An attack on tribal separation was an attack on Jacob's messianic prophecy. The appropriate penalty was ecclesiastical: removal from both inheritance and citizenship within the tribe.

Conclusion

In this chapter I have attempted to answer three questions: What did Leviticus 19:19 mean? How was it applied? How should it be applied today? This is the challenge of biblical hermeneutics.

1. What Did the Verse Mean?

Specialized breeds of animals could be imported and used by the Israelites. These breeds could not be lawfully produced by design or neglect (unrepaired fences) in Israel. Their use was legal; their production was not. In contrast, the mixed fiber cloth could be produced in Israel but not worn within Israel's boundaries. It could lawfully be exported or used for purposes other than clothing. The language of the clothing law was specific: "neither shall a garment mingled of linen and woolen come upon thee."

These differences in the laws point to different symbolic meanings. Leviticus 19:19 is a case law that illustrated a single principle:

the necessity of separation. First, the separation of the tribes of Israel: the prohibition against (1) genetic mixing of animals and (2) the simultaneous planting (mixing) of more than one crop in a single field. Second, section three illustrated the holy (separated) condition of Israel as a nation of priests: mandating the separation of wool and linen in an Israelite's garment. These two fibers are at cross purposes with respect to man's curse: sweat. They were at cross purposes ritually with respect to priestly sacrifices. Therefore, they could not be cross-woven into clothing intended for use by residents of Israel. The cloth could be exported to members of non-priestly nations. It did not matter what they did with it. No lawful sacrifices could be offered in their lands.

The first two laws governed what was done in a man's fields. The fields were under his control. Thus, whatever separation the breeding laws required had to be achieved by establishing boundaries within a man's property. If there was a functional distinction within a species, these breeds had to be physically separated from each other, presumably by fences. Similarly, the seeds of several crops had to be kept separated. Each crop needed its own field at any point in time. This is why the first two laws symbolized the situation inside the national boundaries of Israel. Whatever was outside a family's landed property—its inheritance—was not under its authority. These laws applied inside the boundaries of the inheritance.

This is evidence that the seed laws did not symbolize the covenantal separation between Israel and the world. Israelites had no covenantal authority over the world outside of Israel. They did have authority inside Israel's boundaries, just as they had control over their own fields. So, the separation of their fields symbolized the separation among the tribes. This tribal separation was not genetic but rather *prophetic*. It had to do with inheritance and the promised Seed. The tribes had the same confession (unity maintained); except by forfeiting their landed inheritance, they could not mix maritally (diversity maintained). To keep their names in the land, families had to be separated tribally.

In contrast to the mixed-seed prohibition, the prohibition of mixed-fiber clothing did symbolize the separation between Israel and its neighbors. The judicial issue here was what was lawful for priests to wear. In relation to the world, Israel was a nation of priests. This law was an aspect of Israel's unique covenantal status. This law did not apply to non-priestly nations. Thus, the cloth could be exported.

It was not its production that was prohibited, merely its use as clothing within Israel.

This three-fold law was temporary. It ended with the death, resurrection, and ascension of Jesus Christ, or, at the latest, at Pentecost. *Spiritual adoption has overcome tribalism as the basis of inheritance in the kingdom of God*. The gift of the Spirit is the basis of Christians' inheritance, not physical reproduction. National Israel was disinherited in A.D. 70.[86] The kingdom of God was taken from national Israel and given to a new nation, the church (Matt. 21:43). The jubilee land laws (Lev. 25) have ended forever. So have the prohibitions against genetic mixing and mixed crops. When people are baptized into Christ through the Spirit, this new priesthood puts on Christ. The older requirements or prohibitions regarding certain types of garments have ended forever. What remains is the judicial boundary between covenant-breakers and covenant-keepers. This separation is eternal (Rev. 20:14–15).

2. How Were These Laws Applied?

Earlier, I asked the question: Was Leviticus 19:19 itself an economic curse? In some respects, yes. It restricted the development of newer, specialized herds and crops. But these could have been imported. The law did reduce innovations in animal breeding inside national Israel. On the other hand, this law may have encouraged crop rotation. Since one crop had to be planted in one field, it was likely that after the harvest, a different crop would have been planted in that field. Crop rotation benefits agricultural productivity by replenishing the soil. As for wool-linen clothing, it has never gained popularity. Fustian was a mixture of wool and cotton. This was not prohibited. In any case, linen in the summer and wool in the winter would have been the choice fibers for those who could afford both of them.

This law imposed few costs, although it imposed some costs. That was the whole point: there was a trade-off between the *seed of the land* and the *seed of the name*, between landed wealth and tribal promise. Bearing these minor costs was an easy test of Israel's obedience. It symbolized the separation of the tribes in the land until the promised Seed arrived, transferring His inheritance to His people, a new nation of priests.

86. David Chilton, *The Days of Vengeance: An Exposition of the Book of Revelation* (Ft. Worth, Texas: Dominion Press, 1987).

3. How Should These Laws Be Applied Today?

The biblical principle of not mixing seeds, whether of animals or crops in a single field, applies to us only indirectly. The basic judicial application is that we must be faithful to Jesus Christ, the promised Seed, who has come in history. In Him alone is true inheritance. But there is no application with respect to tribal boundaries. The tribes of Israel are gone forever. Thus, there is no application of this verse genetically. We are allowed to breed animals and plant various crops in the same field at the same time.

The other application of the principle of separation in this verse prohibited the wearing of mixed fiber garments. This applies to us today through baptism, for by baptism we have received our new clothing in Christ. This principle of separation still holds nationally, for it is covenantal, not tribal. It refers to the distinctions between priests and non-priests, between priestly nations and non-priestly nations. It refers to the distinction between Christendom and every other world system. But it has nothing to do with fabrics any longer.

18

COVENANTAL FRUIT

> *And when ye shall come into the land, and shall have planted all manner of trees for food, then ye shall count the fruit thereof as uncircumcised: three years shall it be as uncircumcised unto you: it shall not be eaten of. But in the fourth year all the fruit thereof shall be holy to praise the* LORD *withal. And in the fifth year shall ye eat of the fruit thereof, that it may yield unto you the increase thereof: I am the* LORD *your God.*
>
> LEVITICUS 19:23–25

When we consider a biblical case law, it is best to begin theocentrically. God established this prohibition, so it must have had something to do with His relation to the land through His agents, men. The problem that the commentator faces is to specify three things: (1) what this relationship involved; (2) which men it applied to, men in general or the Israelites of the Mosaic covenant; (3) its proper application today. Was it a universal prohibition, or did it apply only to the Promised Land under the Mosaic economy?

A. Seed Laws and Separation

This is a seed law. *The seed laws were laws of separation*. That is, they placed judicial boundaries around living organisms. We need to determine what this law meant. Because this statute invokes the language of circumcision, it has to refer symbolically (i.e., representatively) to the covenantal separation between circumcised and uncircumcised people. Tribal or family separation within Israel is therefore not in question here. What kind of separation was involved? Did this law refer to the legal boundary separating circumcised and uncircumcised men dwelling in Israel? Did it refer to the separation between circum-

cised and uncircumcised nations? Or was there some other separation involved?

I argue that it referred to a unique form of covenantal separation, one which is represented by no other law in Scripture: a separation whose origins were in Israel's past. This separation was the 40-year period of wandering in the wilderness in which the Israelites of the exodus generation refused to circumcise their sons. I need a whole chapter to prove my point.

This law applied to orchards. God marked off the fruit of newly planted trees for His own purposes. He set this fruit outside of covenant-keeping man's lawful access. That is, He placed a "no trespassing" boundary around the fruit of newly planted trees for three years after they began to bear fruit. Then he announced that the fruit of the fourth year was holy: set aside for him. This was analogous to what He had done in the garden with the tree of the knowledge of good and evil: setting it aside for a period, keeping men away from it.

The question is: Why?

B. Temporarily Forbidden Fruit

Two facts need to be noted. *First*, this prohibition applied to the first four years of fruit borne by a tree that was planted in the Promised Land after the land had come under the control of the Israelites. As we shall see, the prohibition did not apply to fruit from trees that had been planted by the Canaanites just prior to the invasion of Canaan by Israel. It was not "trees as such" whose fruit came under this ban; it was trees that had been planted after the conquest.

The seeds or cuttings that would serve as the parents of Israel's first crop would have come from the existing trees of Canaan. The new trees' fruit was to be set aside for three seasons and offered to God in the fourth. This indicates that there had to be a discontinuity between the trees and seeds of the old Canaan and the trees and seeds of the new Canaan. Like the leaven of Egypt that had to be purged out during the first Passover, so were the firstfruits of Canaan. The leaven (yeast) of Egypt could not be used as "starter" for the leaven of the conquered Canaan. It was different in the case of Canaan's trees. They had to be used as "starter" for Israel's new orchards. Thus, God prohibited access to their fruit for a period, thereby emphasizing the covenantal discontinuity between the old Canaan and the new Canaan.

Second, God called "uncircumcised" the forbidden fruit of the first three seasons. This is a peculiar way to speak of fruit. Circum-

cision was the visible mark of the Abrahamic Covenant: the *visible legal boundary* separating the heirs of the promise from non-heirs. That is, circumcision determined inheritance (point five of the biblical covenant: succession/inheritance). In Mosaic Israel, circumcision separated those who had lawful access to the Passover meal from those who did not (point four: oath/sanctions). The legal basis of separation was inclusion vs. exclusion inside the formally covenanted people of God (point three: boundaries). Incorporation into the covenanted nation was by covenantal oath-sign (point four). The uncircumcised individual was institutionally outside God's covenantal boundary. He was therefore *judicially unholy*, i.e., not set apart legally. He would profane a ritually holy place by crossing its legal boundary. But who was this uncircumcised person? Was he a resident alien? If so, what did the mandatory three years of separation have to do with him?

A judicial separation of this kind implied a threat—negative sanctions—to the violator of the boundary. Whom did the forbidden fruit threaten? Not the birds or other beasts of the land. They had lawful access to the fruit during the first three years. The fruit was not poisonous, obviously. Then why was it prohibited to an Israelite? Why was there a legal boundary placed around it? What did this boundary symbolize?

It could be argued that mankind poses a threat to young trees or to the orchard itself. Perhaps the law was ecological in intent rather than ritual. But then why was the new fruit of young trees that had already been planted in Canaan at the time of the conquest not placed under the ban? And why was the covenantal-legal language of circumcision invoked?

C. Uncircumcised Fruit

The language of the law is clear: "And when ye shall come into the land, and **shall have planted** all manner of trees for food, then ye shall count the fruit thereof as uncircumcised." The trees of Canaan that were already bearing fruit at the time of Israel's conquest of Canaan were not under any prohibition. They were to be considered by the invading Israelites as part of the spoils of war. "And I have given you a land for which ye did not labour, and cities which ye built not, and ye dwell in them; of the vineyards and oliveyards which ye planted not do ye eat" (Josh. 24:13). This verse does not say that young trees were excluded; it does imply that the whole land was

God's gift to Israel. Where a prohibition was placed around spoils, which was uniquely the case with the city of Jericho, God warned them in no uncertain terms through Joshua (Josh. 6:17–19).

1. A Legal Issue, Not Ritual

Uncircumcised fruit was analogous to an uncircumcised male or a woman who was under the family jurisdiction of an uncircumcised male: outside the covenant. This was a legal issue, not ritual: incorporation. The fruit of the Canaanites' existing orchards was not identified as judicially uncircumcised. It could immediately be consumed or sold by the land's new owners. So, the prohibition had nothing to do with any supposedly ritually polluting effects of the land of Canaan. In fact, the reverse was the case: the land was holy, but the Canaanites were not. The land was part of Abraham's legacy to his heirs (Gen. 15:16).[1] It was judicially holy land. God's promise had made the land *definitively* holy. Subsequently, the land had been *progressively* polluted by the Canaanites:

> Defile not ye yourselves in any of these things: for in all these the nations are defiled which I cast out before you: And the land is defiled: therefore I do visit the iniquity thereof upon it, and the land itself vomiteth out her inhabitants. Ye shall therefore keep my statutes and my judgments, and shall not commit any of these abominations; neither any of your own nation, nor any stranger that sojourneth among you: (For all these abominations have the men of the land done, which were before you, and the land is defiled;) That the land spue not you out also, when ye defile it, as it spued out the nations that were before you (Lev. 18:24–28).[2]

The Canaanites' ethically perverse behavior had defiled the holy land, i.e., *profaned* it. They were unholy men dwelling inside a holy boundary. Finally, the land purged itself of those who had defiled it. It was a holy land, so it vomited out those who were unholy. But why didn't the land do this long before Joshua's generation? Because the cup of iniquity of Canaan ("Amorites") had not been filled up (Gen. 15:16b). A progressive process of profanation had to take place first, just as a progressive process of holiness had to take place among the Israelites. By Joshua's day, this progressive profanation by the Canaanites had reached its fullness (final profanation), as had the progressive sanctification of Israel. It was time for the land to begin

1. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, 2012), ch. 23.
2. Chapter 10.

vomiting, i.e., time for Israel to invade. The land became *finally* holy at the time of the invasion by a judicially holy nation. *It was circumcised Israel's presence in the land that made the land a finally holy place*. The judicially mandatory cleansing process began. The separation was to be total: the annihilation of the Canaanites (Deut. 7:16).

When the land attained its status as finally holy, it gained its status as *ritually holy*. The finalization of the land's holy status in history came only with the circumcision of Israel inside the land (Josh. 5). The Israelites had been ritually unholy until they were circumcised at Gilgal. Their circumcision anointed them as a nation of priests, and they could then lawfully offer sacrifice: Jericho, Israel's firstfruits offering to God (Josh. 6:24). The battle of Jericho marked the beginning of the land's vomiting process. The land began serving as God's covenantal agent: "And I will send hornets before thee, which shall drive out the Hivite, the Canaanite, and the Hittite, from before thee" (Ex. 23:28). *It was the presence of the circumcised nation of Israel in the land that made the land and its existing fruits holy*. Except for Jericho, which served as the firstfruits for the Lord, none of the land and its fruit was declared off-limits to covenant-keepers. The land had become totally off-limits to the covenant-breaking Canaanites who were residing in it.[3] When the Israelites inherited the land, the land gained a unique judicial and ritual status as God's dwelling place. It became the land of the tabernacle and, later, the temple. It was the only place on earth where lawful sacrifices to God were offered by God's corporately covenanted people.

2. Who Planted Which Trees?

Why, then, was the early fruit of newly planted trees identified as uncircumcised? *Uncircumcised* means unholy: not set apart by God, i.e., *not incorporated*. How could the land, which had been made finally holy by the invasion of the Israelites, produce unholy or uncircumcised fruit? Clearly, the new fruit was declared uncircumcised, but the land could not have been at fault. Conclusion: *if it was not the land that was the source of the new fruit's unholy status, then it must have been the Israelites*. But why?

To find the answer, we need first to ask: What was judicially or ritually different about fruit trees that had been planted by the Israel-

3. The exceptions, of course, were the Gibeonites (Josh. 9), who lost their land and citizenship, becoming slaves to the Levites (Josh. 9:23, 27), who also owned no land outside cities.

ites in the Promised Land, as distinguished from young trees that had been planted by Canaanites immediately prior to Israel's invasion of the land? When an Israelite was the agent who planted seeds in the land, the judicial status of the fruit of the trees changed. The fruit was placed inside a legal boundary for four years. It was declared off-limits. Normally, we would expect any set-apart status to be called *holy* by God, but in this case the fruit was called *uncircumcised*. This is peculiar. What was special about the fruit of young trees planted by Israelites? What was the point, ritually and judicially?

Trees and edible fruit pointed back to the initial test of mankind in the garden. Adam was prohibited from eating the fruit of a specified tree. It was off-limits to him. This is not to say that it was to be kept away from him forever. What Adam should have done was to eat from the tree of life before he went to the tree of the knowledge of good and evil. His spiritual maturity was supposed to be based on his participation in a meal from the tree of life, not on his access to instant knowledge. The tree of the knowledge of good and evil served as a reminder to Adam that God is sovereign, for He places lawful boundaries around anything He chooses. He does whatever He chooses with everything that belongs to Him, and no one can call Him to account.[4] He calls His creatures to account, not the other way around.

What was God's reason for calling the fruit of the first three years *uncircumcised*? What did circumcision have to do with fruit? Biologically, nothing at all; symbolically, everything. In Israel, not to be circumcised was to be judicially unholy, i.e., common or "gentile." Those people who were holy had been set apart judicially by God: incorporated into the covenant people. The new fruit was identified by God as *judicially unholy*—not ritually unclean, but judicially unholy, meaning *common*. The unholy or gentile judicial status of the fruit was not produced by the land, which was itself holy; it therefore had to be produced by the Israelites who did the planting. Conclusion: *the judicial status of being uncircumcised came from men who were circumcised*. Why was this the case?

D. History and Eschatology

Obviously, there was nothing unholy about the judicial status of the circumcised Israelite at the time that he planted an orchard. What was it about judicially holy men that produced an opposite judicial

4. This is the primary message of the Book of Job.

status in the fruit of young trees? Here is the dilemma: the Israelites' present judicial status at the time of planting was holy; the land's present judicial status was also holy; yet the fruit would be judicially unholy for three years. The judicial question has to be turned away from the Israelites' present judicial status in Mosaic Israel to their past, their future, or both.

The frame of reference surely was not eschatological in the way that the seed laws of Leviticus 19:19 were. The orchard statute had nothing to do with tribal separation, the way Leviticus 19:19 did.[5] The law of uncircumcised fruit did not refer Jacob's promise to a specific tribe of Israel, nor did it mandate the permanent separation of tribal inheritance until the Promised Seed appeared. I therefore conclude that this statute's primary frame of reference was historical. The anomaly of two holy things—land and circumcised planter—producing something temporarily unholy points back to the generation of the conquest of the land: the fourth generation after Abraham's covenant (Gen. 15:16). Why do I conclude this? First, because that generation was temporarily unholy. Second, because of the *representative* numerical relationship between 40 days (the time the twelve tribal spies spent in the Promised Land: Numbers 13), 40 years (the time of the wilderness wandering), and four years (the period of the two-fold boundary around the fruit).

1. 40 Years

For four decades, the Israelites of the exodus generation had wandered in the wilderness without circumcising their sons. Why 40 years? Because the spies had been in the land for 40 days:

> Say unto them, As truly as I live, saith the LORD, as ye have spoken in mine ears, so will I do to you: Your carcases shall fall in this wilderness; and all that were numbered of you, according to your whole number, from twenty years old and upward, which have murmured against me, Doubtless ye shall not come into the land, concerning which I sware to make you dwell therein, save Caleb the son of Jephunneh, and Joshua the son of Nun. But your little ones, which ye said should be a prey, them will I bring in, and they shall know the land which ye have despised. But as for you, your carcases, they shall fall in this wilderness. And your children shall wander in the wilderness 40 years, and bear your whoredoms, until your carcases be wasted in the wilderness. **After the number of the days in which ye searched the land, even forty days, each day for a year, shall ye bear your iniquities, even forty years, and ye shall know my breach of promise.**

5. Chapter 17.

> I the LORD have said, I will surely do it unto all this evil congregation, that are gathered together against me: in this wilderness they shall be consumed, and there they shall die (Num. 14:28–35).

Except for Joshua and Caleb, the men of the exodus generation had been designated by God as unholy because of their disbelief and rebellion. They could not enter the land, which would become finally holy at the time of their sons' mass circumcision at Gilgal. They could not lawfully cross this boundary; to have done so would have been a profane act. Thus, that first generation had to be kept outside the land by God. They were not allowed to profane the holy land by violating its boundaries.

When they were all dead, as prophesied, their sons were allowed to cross that boundary. But they, too, were unholy. They had never been circumcised. So, Joshua had them circumcised at Gilgal after they came into the land (Josh. 5:6–12).

The male children in the wilderness should have been circumcised on the eighth day after each was born. Their parents had refused to do this. The text does not say why. I think the most likely economic explanation is that the parents thought they might return to Egypt at some point. They were "keeping their options open" covenantally with respect to their children. The children were not formally placed under the covenantal protection and obligations that God requires of His people. That is, their parents did not incorporate them into the nation.

The parents had been told by God that they would not enter the land (Num. 14:23). They regarded their possession of the land of Canaan as the only meaningful public validation of God's covenant; their deliverance from bondage in Egypt was not sufficient in their eyes. They were basically announcing: "No immediate payoff in real estate; so, no mark of covenantal subordination in our sons." They wanted an immediate payoff, just as Adam had desired in the garden; they were unwilling to trust God with respect to the inheritance of the land by their children. So, God kept that uncircumcised younger generation in the wilderness until the exodus generation died, except for Joshua and Caleb.

There may also have been a judicial reason for their refusal. The nation had rebelled against Joshua and Caleb, and then against God when they attacked the Amalekites and Canaanites against God's specific command (Num. 14:39–44). The 10 cowardly spies had been killed by God through a plague (Num. 14:37). The nation had be-

come unholy: separated from the definitively holy Promised Land for one generation. The fathers may have concluded that they had lost their status as household priests. So, they refused to circumcise their sons, or have the Levites circumcise them. Whether this was at God's command is not revealed in the text. But these people were cowards, and they had seen what happened to the 10 cowardly spies. They may have decided that discretion was the better part of valor with respect to circumcising their sons.

After entering the land, the sons who had been born in the wilderness were immediately circumcised. At that point, they celebrated the Passover with the existing fruit of the land (Josh. 5:11). Immediately, the miraculous manna ceased. The people lived off the fruit of the land from that time on (Josh. 5:12). They had moved from miraculous food to miraculous warfare (Jericho). After the conquest of the land, they moved to non-miraculous planting.[6]

To recapitulate: Canaan's conquerors had been uncircumcised for up to 40 years. The close of the wilderness period came with their celebration of the Passover as *household priests*: heads of their own households. Then the conquest began. The firstfruits of the conquest was the city of Jericho, which had to be burnt as a whole offering to God. None of its treasure was to be taken by the Israelites personally; everything was either to be burned or used to make the treasures of the tabernacle (Josh. 6:19). Jericho was to be cut off completely: a foreskin.

2. Four Years

We return to Leviticus 19:23–25. The fruit of newly planted trees was off-limits to them until the fourth year. "But in the fourth year all the fruit thereof shall be holy to praise the LORD withal." The question is: What were they required to do with the fruit in year four? Were they to take it to the priest, as they were required to with the firstfruits offering (Lev. 23:10–11)? Or was it analogous to the required third-year tithe feast in Jerusalem (Deut. 14:22–23)?[7]

Because the forbidden fruit is called uncircumcised, it is best to treat the fourth–year harvest as analogous to the Passover feast. Only after circumcision was Passover legal. This fourth-year feast provided each family with the first lawful occasion for enjoying the fruits of their own labor—the trees they had planted and nurtured—in the

6. There would still be one remaining miracle: the triple harvest just before the seventh sabbatical year (Lev. 25:21).

7. North, *Inheritance and Dominion*, ch. 35.

Promised Land. What had been uncircumcised fruit and therefore forbidden to them became *circumcised in the fourth year*, and therefore eligible to serve as *food for a mandatory holy feast*. They would have had to invite the Levites to the feast, and presumably also widows and orphans, just as they were required to do in the third-year festival: "And the Levite that is within thy gates; thou shalt not forsake him; for he hath no part nor inheritance with thee. At the end of three years thou shalt bring forth all the tithe of thine increase the same year, and shalt lay it up within thy gates: And the Levite, (because he hath no part nor inheritance with thee,) and the stranger, and the fatherless, and the widow, which are within thy gates, shall come, and shall eat and be satisfied; that the LORD thy God may bless thee in all the work of thine hand which thou doest" (Deut. 14:27–29).[8]

3. Historical References

It is time to make some connections. We have to ask ourselves: What did this prohibition represent?[9] First, young fruit trees are immature. So were the children born in the wilderness. Such fruit was designated as uncircumcised. The children in the wilderness era had been uncircumcised.

Second, the "harvesting" of Canaan militarily began after 40 years. The unrestricted harvesting of fruit trees began lawfully after four years of fruitfulness.

Third, there is the question of inheritance. Caleb said that he had been 40 years old in the year that he had been sent in to spy out the land (Josh. 14:7). This was one year after the exodus (Num. 10:11–12; 13:17–20). Israel wandered for 39 years after the spying incident before entering Canaan. Caleb was 79 (40 + 39) when the invasion began, and 85 when it ended (Josh. 14:10).[10] So, it took Israel six years to conquer Canaan. The text says that the land then had rest from war (Josh. 14:15). This means that there was rest from war in the seventh year—a sabbatical symbol. Therefore, during the *fifth decade* after the exodus, Israel took possession of the whole land as its inheritance. Similarly, the *fifth year* of fruit was the first year in which the fruit of the trees belonged to the individual.

There is a parallel between the wilderness years the uncircumcised

8. *Idem*.

9. The issue of *symbolism* in the Bible is *judicial representation*, point two of the biblical covenant model. We seek to learn what a particular symbol represented judicially.

10. James B. Jordan, "The Chronology of the Pentateuch (Part 6)," *Biblical Chronology*, VI (Aug. 1994), pp. 3–4.

generation of the conquest and the ban on eating the fruit of new trees planted in Canaan. The fruit did not belong to the owner until after the holy feast of year four. That is, he took possession of the fruit in year five. This parallels Israel's taking possession of Canaan during decade five. This four-year prohibition pointed symbolically back to Israel's rebellion in the wilderness: four decades of deferred possession. This seed law for orchards referred back to the unique historical experience of the conquest generation: Israel's seed.

4. Eschatological References

Yet in several ways, this law also typified the ministry of Jesus Christ. In this sense it was eschatological. Jesus did not begin His public ministry until He was 30 years old: "And Jesus himself began to be about thirty years of age" (Luke 3:23a). Thus, for three decades—the years of Jesus' youth—the nation of Israel did not have access to His ministry. In the beginning of His fourth decade, then, Jesus began to preach.

His ministry seems to have lasted three years.[11] Then, in the fourth year, He was tried and crucified. This took place immediately after the Pharisees' and Galileans' Passover ("Thursday" evening: Nissan 14) and just before the Sadducees' and Judeans' Passover ("Friday" evening: Nissan 15).[12] This tree of life never again bore fruit for Old Covenant Israel. Jesus was the Passover lamb. If I am correct in suggesting an analogy between the fourth year's holy fruit and the Passover, then it can be said that the Jews symbolically took the Passover fruit and had the Romans nail it back on a tree. The Jews, given a choice, chose unholy fruit (Barabbas) in place of the holy fruit:

> And Pilate, when he had called together the chief priests and the rulers and the people, Said unto them, Ye have brought this man unto me, as one that perverteth the people: and, behold, I, having examined him before you, have found no fault in this man touching those things whereof ye accuse him: No, nor yet Herod: for I sent you to him; and, lo, nothing worthy of death is done unto him. I will therefore chastise him, and release him. (For of necessity he must release one unto them at the feast.) And they cried out all at once, saying, **Away with this man, and release unto us Barabbas**:

11. *Cyclopaedia of Biblical, Theological, and Ecclesiastical Literature*, eds. John M'Clintock and James Strong, 12 vols. (New York: Harper & Bros., 1894), IV, p. 881; *The International Standard Bible Encyclopaedia*, ed. James Orr, 5 vols. (Grand Rapids, Michigan: Eerdmans, [1939] 1943), III, p. 1629.

12. Harold W. Hoehner, *Chronological Aspects of the Life of Christ* (Grand Rapids, Michigan: Zondervan, 1977), p. 89.

> (Who for a certain sedition made in the city, and for murder, was cast into prison.) Pilate therefore, willing to release Jesus, spake again to them. But they cried, saying, Crucify him, crucify him (Luke 23:13–21).

The theme of three years and a fourth year is clear in Jesus' parable of the fig tree:

> He spake also this parable; A certain man had a fig tree planted in his vineyard; and he came and sought fruit thereon, and found none. Then said he unto the dresser of his vineyard, Behold, these three years I come seeking fruit on this fig tree, and find none: cut it down; why cumbereth it the ground? And he answering said unto him, Lord, let it alone this year also, till I shall dig about it, and dung it: And if it bear fruit, well: and if not, then after that thou shalt cut it down (Luke 13:6–9).[13]

If the tree failed to bear fruit in the fourth year, it was fit for burning. That was Old Covenant Israel in Christ's day. God publicly burned this barren fig tree in A.D. 70.[14]

E. Initially Confusing Economics

Gordon Wenham has very little to say about this law. He sees it as part of the laws imposing personal economic sacrifice: giving one day in seven to God, tithing, and the dedication of the firstfruits. This makes sense both economically and theologically with respect to the fourth year's crop, but it makes no sense with respect to the first three years. Why should God want men to offer Him the less valuable fruit of a tree's life cycle? Wenham's confusion escalates when he begins to discuss the economics of the prohibition. "In the case of fruit trees, however, little fruit is borne in the early years, and this law specifies that it is the fourth year's crop that counts as the firstfruits and must be dedicated to God. Old Babylonian law (LH 60) also reckons it takes four years for an orchard to develop its potential. Similarly sacrificial animals may not be offered till they are at least eight days old (Exod. 22:29 [Eng. 30]) and boys are not circumcised till the eighth day (Gen. 17:12)."[15] His assumption is this: *youth = less value*; hence, the Israelites had to wait for a time before offering such reduced-value sacrifices, including circumcision.

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13. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 30.

14. David Chilton, *The Days of Vengeance: An Exposition of the Book of Revelation* (Ft. Worth, Texas: Dominion Press, 1987).

15. Gordon J. Wenham, *The Book of Leviticus* (Grand Rapids, Michigan: Eerdmans, 1979), p. 271.

Wenham referred to the Hammurabi Code, but this passage presents formidable problems to anyone who would identify this law with the law of uncircumcised fruit. The law reads: "If, when a seignior gave a field to a gardener to set out an orchard, the gardener set out the orchard, he shall develop the orchard for four years; in the fifth year the owner of the orchard and the gardener shall divide equally, with the owner of the orchard receiving his preferential share."[16] First, this referred to the time of growth for the trees, not the first four years of actual fruit-bearing. Second, the gardener was not prohibited from appropriating fruit in years one through four; he could. Only in the fifth year did he have to divide the crop with the owner. In other words, the gardener, as the subordinate, kept whatever the trees produced in years one through four; beginning in the fifth year, the owner was entitled to half. That is, in the trees' lean years, the gardener kept it all. But the Levitical law established the opposite system: the gardener kept nothing in years one through three of actual production. Only in year four did the firstfruits principle go into effect: a joint feast. God received it all ritually in that year. Afterward, He took only the tithe.

There is clearly an economic element in all this. The owner of the land (God's "gardener") did without for at three years. In this sense, he did make an economic sacrifice. But why did God impose this economic sacrifice? Why did He declare the less valuable fruit off-limits? He did this in no other formal sacrifice in the Old Covenant. To offer a less valuable asset to God as a lawful sacrifice seems to testify falsely to the value of the ultimate sacrifice for sin: the death of His Son. So, I conclude that leaving the young fruit to drop and rot on the ground was not an aspect of the laws of formal sacrifice. As we have seen, this prohibition was a symbolic negative sanction against them for their uncircumcised status in the wilderness. The three-year delay was not a ritual sacrifice, although the fourth-year feast probably was.

F. Rabbinical Interpretations

Rabbinical commentators have long pointed to the obvious fact that this case law imposed a cost on the owner, namely, forfeited fruit. They have not traced the origin of this law back to a specific Israelite rebellion: Israel's refusal to challenge the Canaanites for control over the land and the refusal to circumcise their sons. They have not seen

16. *Ancient Near Eastern Texts Relating to the Old Testament*, ed. James B. Pritchard, 3rd ed. (Princeton, New Jersey: Princeton University Press, 1969), p. 169.

the law as God's subsequent imposition on that generation's heirs of a *restitution payment* to both the land itself (the environment) and God. Instead, they argue that there is something instructive in this law regarding man's general moral condition. Rashi,[17] the late eleventh-century commentator, cited Rabbi Akiba, who had lived over nine centuries earlier.[18] "The Torah says *this because it has man's* evil inclination in mind: that one should not say, 'Behold, for four years I must take trouble with it for nothing!' Scripture therefore states *that the result of your obedience will be* that it will give you its produce in larger quantities."[19] Rashi identified mankind's universal time-preference—discounting the future value of scarce economic resources compared to their present value—as "man's evil inclination."

S. R. Hirsch, the mid-nineteenth-century defender of what has become known as Orthodox Judaism, also placed the meaning of this law within the boundaries of man's evil (animal-like) preference for present gratification. He, too, transformed the prohibition into a general moral issue: "The Jew waits three years before he enjoys the fruit for which he has planted the tree. And in refraining from using the fruit at God's command, he strips himself of the rights of property before God, and so for three years he practices by this restraint the self control which is so necessary for keeping enjoyment within the limits of morality. . . . [H]e learns to bring even the enjoyment of his senses out of the chains of animal greed into the sphere of self-controlled, God-remembering and God-serving happiness, and so remains worthy of being a human being and near to God also in the enjoyment of his senses."[20]

What the rabbis have criticized is the phenomenon of time-preference: the preference of all acting men for immediate gratification compared to deferred gratification, *other things being equal*. Time-preference is an inescapable aspect of man's existence. If I offer you, free of charge (including any storage or insurance costs you may have to pay), the choice between a gift received today or a year in the future, you will take it today, assuming that you expect other things to re-

17. Rabbi Solomon (Shlomo) Yizchaki.

18. Akiba is sometimes suggested as the successor to Gamaliel. He participated in the disastrous Bar Kokhba rebellion against Rome in the early 130s, A.D. He was the first compiler of the Mishna, or Jewish oral tradition.

19. *Chumash with Targum Onkelos, Haphtaroth and Rashi's Commentary*, A. M. Silbermann and M. Rosenbaum, translators, 5 vols. (Jerusalem: Silbermann Family, [1934] 1985 [Jewish year: 5745]), III, p. 89a.

20. Samson Raphael Hirsch, *The Pentateuch*, translated by Isaac Levi, 5 vols. (Gateshead, London: Judaica Press, [1867–78] 1989), III, p. 546.

main equal. You prefer to begin receiving the psychic income stream from the gift immediately rather than a year from now. Besides, you have no assurance that you will even be alive a year from now.

The rabbis have argued that this universal preference for goods in the present vs. the same goods in the future is somehow evil. They are wrong. Time-preference is not something evil; it is a rational response to man's inescapable judicial status as *an agent who lives in the present and who is responsible for taking action in the present*. A person's present decision counts for more ethically and judicially than some future decision. He is responsible for actions taken now. *To live is to act*. To act is to make choices.[21] No one can evade this responsibility except through death. Man's judicial status imposes economic costs on him. One of these costs is the *reduced present value* of expected future assets compared with the same assets possessed now.

This inescapable fact of life does not imply that the future is economically irrelevant. It also does not mean that the present value of expected future goods is zero. The covenantally faithful man looks to the future, especially his resurrection and the world beyond the resurrection (Dan. 12:1–4). But to equate man's time-preference with evil or animal-like behavior is a very serious mistake, both exegetically and economically.[22] Time-preference is a fact of life, not a moral factor. It is what a person does in terms of his time-preference that makes a covenantal difference.

G. Forfeited Income and Class Position

There is no doubt that one economic effect of this law was to force the orchard's owner to forego three years' worth of the orchard's output before he could celebrate before the Lord in year four. No doubt this law did pressure obedient men to count the costs of their decision: planting an orchard vs. planting something else (or planting nothing). But being required to count the costs of our actions is not in and of itself an incentive to become more future-oriented. *No law can force men to become more future-oriented*. The function of biblical civil law is not to make men positively good; it is to reduce the level of public evil. This law sorted out those who were more future-oriented

21. Ludwig von Mises, *Human Action: A Treatise on Economics* (New Haven: Connecticut: Yale University Press, 1949).

22. For a consideration of mistakes that can follow, see Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3, *Tools of Dominion* (1990), Appendix J: "Lots of Free Time: The Existentialist Utopia of S. C. Mooney."

(less present-oriented) from those who were less future-oriented (more present-oriented). Those residents of the holy commonwealth who were more future-oriented were more likely to plant orchards. Those who were less future-oriented were more likely to plant a crop that was not under a temporary harvesting restriction. Each man made his choice. So, there was no necessary connection between this case law and a general increase in men's future-orientation. But there was a necessary connection between future-orientation and the kinds of crops individual decision-makers planted.

Edward Banfield has linked time perspective with class position. An upper-class person is someone with low time-preference, i.e., a future-oriented person.[23] A society that views an increase in future-orientation as a virtue—and the Bible indicates that it is a virtue[24]—does pressure individuals to become more future-oriented. But civil law cannot accomplish this.[25] Then what does? Such psychological factors as fear, education, and moral persuasion. At best, widespread obedience to the uncircumcised fruit law would have enabled local residents to identify families whose heads of household were (or had been) future-oriented. The presence of an orchard on a person's land so identified such an individual, or at least such a family.

In the moral environment of covenantally faithful Israel, the presence of an orchard became a kind of status symbol. The orchard took on the characteristic of a consumer good. Like a very expensive automobile in today's world, the orchard testified to someone who had "made it" because of his (or his father's) diligence and willingness to defer gratification by planting the orchard. In this sense, the uncircumcised fruit law may have indirectly promoted future-orientation, but only because this outlook on deferred gratification was already widely acknowledged to be positive—a sign of character in a person or family. The presence of an orchard became a visible manifestation of a desirable character trait. In short, "if you've got it, flaunt it!"

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23. Edward Banfield, *The Unheavenly City* (Boston: Little, Brown, 1970), pp. 48–50. On the middle class, see pp. 50–53. On the lower class, see pp. 53–59. On the importance of Banfield's book, see Thomas Sowell, "The Unheavenly City Revisited," *American Spectator* (Feb. 1994).

24. At the margin, of course. An increase to total future-orientation is not possible, for we must eat, drink, and be clothed in the present.

25. This includes tax policy. Lowering capital gains tax rates, for example, does not make someone more future-oriented. It merely raises the after-tax return of future profits. The fact that a person can legally keep more in the future than less in the future will affect his present investment decisions, but this change has nothing to do with a change in his time-preference: the discount of future value in relation to present value.

There is a secondary aspect of transgression associated with time-preference. When God says "Wait!" men are supposed to wait. This imposes a cost on man and therefore requires faith, for there is no escape from time-preference, meaning a discount of future vs. present economic value. There is, however, a very high present value on waiting when God commands us to wait (Ps. 27:14; 37:34; Prov. 20:22). *Avoiding God's wrath is a fundamental component of rational cost-benefit analysis*. So, the benefits of waiting are in such cases greater than the costs. Men are supposed to believe this and then *act* (i.e., do something else besides the prohibited act) in terms of this fact.

The fruit of trees planted in the Promised Land by the priestly people of Israel was completely off-limits to the covenant-keeping Israelite for three years. The fruit of a young tree was protected. That is to say, this young fruit was reserved by God for Himself, just as the forbidden fruit in the garden had been. He allowed the birds and animals of the field to eat it, but not His human covenantal agents. Each tree planted after the conquest was to receive care from the husbandman without having to produce income for him in the short term. The gardener had to wait.[26] At the very least, this was a reminder to covenant-keeping man that he should not plan for a rapid return on his investment. The lure of legal short-term profits was removed from this aspect of agriculture. The person who planted trees had to have a longer-term outlook on the economic fruits of investing than the person who planted only a grain field.

When Adam ate the forbidden fruit, he was announcing by his action that he was unwilling to wait for God's decision to allow him lawful access to such judicial knowledge. Adam's act was a premature grab for the robes of judicial authority. It was not primarily his present-orientation as such that was his fault; it was his unwillingness to celebrate with God in a communion meal at the tree of life. Adam's act was an assertion that the terms of life and death are based on man's autonomous knowledge of good and evil: a false assertion. It was the other way around for Adam. He could not attain eternal life through specialized knowledge of the law. He could gain an *indeterminate exten-*

26. This requirement to wait was imposed even on Jesus. It is significant that Mary first identified the resurrected Jesus as a gardener (John 20:15). As the Second Adam, He was God's new designated gardener of the world. He had to wait until His resurrection before He was allowed to celebrate the firstfruits of His ministry. This shared meal took place on the fourth day after He had celebrated Passover (Luke 24:41–43). He now shares this firstfruits feast only with His designated priesthood: the church, His true bride.

sion of his life on earth only through obedience to the one law that he had been given. He could gain the blessing of eternal life only by eating from the tree of life, avoiding the forbidden fruit.[27] Adam violated God's "no trespassing" sign and became a sacrilegious thief. It was not simply that he was unwilling to wait on God in order to receive lawful access to the tree of knowledge; it was that he was unwilling to subordinate himself to God and accept first the grace of lawful access to the tree of life. The primary judicial issue was not Adam's degree of time-preference; the issue was his willingness to submit to God.

H. Which Decalogue Commandment?

Rushdoony wrote that this law was an aspect of the sabbath laws of the land. He discusses it in a chapter on the fourth commandment. "This law clearly is linked with laws previously discussed which bear on soil conservation, the fertility of the trees, and respect for the life of all creation."[28] If he was correct, then this law also governed the non-priestly nations besides Israel: a cross-boundary law. It is therefore universal and still in force. As part of the laws of the sabbath, it refers to the legitimate rest that the land deserves, all over the world.

1. Unique to Israel

I argue that this law was unique to the history of Israel. It was imposed by God on the whole nation because of the restitution that was owed to the land of Canaan by all of Israel, including the heirs of the exodus generation. The land had to be compensated for the extra generation of living under the authority of the Canaanites: an extra generation of slavery. This law imposed costs on the heirs of that rebellious generation.[29] This law was not a cross-boundary law. It was exclusively a Mosaic seed law: the uncircumcised sons of the exodus generation and their heirs' uncircumcised fruit. It was tied exclusively to the Promised Land, and even more narrowly: to the Promised Land after the circumcision of Israel (Josh. 5). Rushdoony

27. It is worth noting that Adam and Eve were kept outside the garden after their rebellion in order to keep them from eating from the tree of life (Gen. 3:22–23). What had been not only legal for them but expected of them before their rebellion became illegal afterward. Similarly, the Israelites were expected to conquer the land immediately after the giving of the law, but when they rebelled against the testimony of Joshua and Caleb, they were kept outside the land until they died.

28. R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), p. 147.

29. This included resident aliens in the land. It applied to every resident, not just Israelites.

subsumed this law under the wrong commandment. It had nothing to do with the sabbath.

The land of Palestine no longer enjoys a unique covenantal status before God. That status finally ended with the land's purging of the Israelites in A.D. 70. What God warned in his law came true: the land vomited them out. Just as the Israelites had been the agents by which the Promised Land spewed out the Canaanites, so the Romans became the agents by which the land spewed out covenant-breaking Israel. The Israelites had used Roman law and Roman power to crucify Jesus; Roman law and power were then used to crucify tens of thousands of Jews in A.D. 70. Josephus' contemporary account records that five hundred a day were crucified.[30] He said that over a million people died in the siege, with 97,000 taken captive.[31] Michael Grant said that this figure is probably an exaggeration, but the losses were "appallingly high."[32] Some 30,000 captives were sold at auction.[33] At Caesarea Philippi, 2,500 Jews were slaughtered in gladiatorial games in honor of the birthday of Titus' younger brother Domitian. Later, at Berytus, to celebrate the birthday of their father Vespasian, his sons burned to death even more than this.[34] These doomed Jews became living sacrifices—burnt offerings, in fact—to the military hero of Rome who had just become emperor. Four decades earlier, we read, "they cried out, Away with him, away with him, crucify him. Pilate saith unto them, Shall I crucify your King? The chief priests answered, We have no king but Caesar" (John 19:15). Power religion giveth, and power religion taketh away.[35]

2. Annulment

When the temple's sacrifices ended, and God no longer dwelt in the Promised Land, Leviticus 19:23–25 was annulled by God. The land of Palestine today is no longer owed any restitution payment. It no longer spews people out of its boundaries. Its unique covenantal status ended in A.D. 70.

This law was never part of the sabbath rest laws. It was part of the restitution laws. It therefore came under the general category of

30. Flavius Josephus, *Wars of the Jews*, Book V, Chapter XI, Section 3.
31. *Ibid.*, VI:ix:3.
32. Michael Grant, *The Jews in the Roman World* (New York: Dorset, [1973] 1984), p. 202.
33. *Ibid.*, p. 203.
34. *Idem.*
35. Cursed be the name of power religion.

theft laws: the eighth commandment. But the Promised Land's owner was God; thus, this law relates also to the third commandment: the boundary around God's name. God placed a "no trespassing" boundary around the fruit of young trees, just as He had placed such a boundary around the tree of the knowledge of good and evil. He had originally placed no such boundary around the tree of life. It was not trees in general or fruit in general that came under the original ban in Eden; it was only one tree. This Edenic prohibition had nothing to do with soil conservation. It was not universal. It was in fact a temporary ban. So was the Mosaic law's ban on uncircumcised fruit. At the very least, that law ceased to have any judicial authority when circumcision ceased being a covenantally relevant mark (I Cor. 7:19).

The church has lawful access to the tree of life through baptism and holy communion. "Blessed are they that do his commandments, that they may have right to the tree of life, and may enter in through the gates into the city. For without are dogs, and sorcerers, and whoremongers, and murderers, and idolaters, and whosoever loveth and maketh a lie" (Rev. 22:14–15). There is no need to delay in partaking of the holy meal of communion. There is no temporal barrier today. But there is a judicial barrier: only those who have been baptized have legal access to God's holy meal.

The rite of circumcision is annulled. Therefore, there is no longer any legal status of fruit known as "uncircumcised." What had been forbidden to Israelites in the Mosaic Covenant on the basis of the circumcision laws is today ritually and judicially irrelevant:

> Is any man called being circumcised? let him not become uncircumcised. Is any called in uncircumcision? let him not be circumcised. Circumcision is nothing, and uncircumcision is nothing, but the keeping of the commandments of God (I Cor. 7:18–19).

Conclusion

The law governing the harvesting of fruit from a young tree was a law unique to ancient Israel. It was not intended for the nations around Israel, for it was part of the seed laws and land laws that applied only to Israel as a holy nation. This law was a negative sanction imposed on Israel by God because of the wilderness rebellion. God imposed this law as a negative sanction because of the failure of the exodus generation to invade the land of Canaan after hearing reports and military analysis from Joshua and Caleb. The land of Canaan had deserved deliverance from the Canaanite rule 40 years before the

children of the exodus generation invaded the land. It therefore was owed restitution by the heirs of the exodus generation. This law had nothing to do with biological health, contrary to Rushdoony.[36]

This law was also an aspect of the parents' failure to circumcise their sons in the wilderness. This is why the new fruit was called uncircumcised. This was to remind them of the sons' own temporary status as unholy—*culturally unfruitful*—during the 40 years of wilderness wandering. This law was never designed as a universal statute; it was a specific negative sanction on the people of Israel and a positive sanction on the Promised Land itself. It was not a cross-boundary law.

This law's underlying judicial foundation is still in force, however. That foundation is God's declaration regarding legal access to particular trees. In the garden of Eden, only one tree was prohibited: the tree of the knowledge of good and evil. After Adam's rebellion, a "no trespassing" boundary was placed by God around the tree of life (Gen. 3:24). Because of the New Covenant in Jesus Christ, the fruit of the tree of life is now available to covenant-keeping men. Because of this, God has removed the "no trespassing" sign from every tree.

What had been a prohibition under the Old Covenant has become a positive injunction under the New Covenant. God's covenant people are commanded to come to the communion table; this is not an option on their part. Like the tree of life, which was open to covenant-keeping man before Adam ate from the forbidden fruit, so is the communion table open today. Baptized people can lawfully celebrate the modern Passover feast without having to wait.

A proper understanding of the judicial connection between the food laws and seed laws of the Mosaic Covenant and the communion table in the New Covenant leads to an acknowledgment of the New Covenant's annulment of the Mosaic Covenant's seed laws and food laws. God places only one boundary around food: the communion table. It is open only to Christians. There are no other food restrictions (Acts 10).[37] It is therefore incorrect to continue to honor the specific terms of Leviticus 19:23, a law that applied only to national Israel. When a young tree bears fruit, we are to enjoy it. But we must also pay our tithe to the local church on whatever we harvest.[38]

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36. Rushdoony, *Institutes*, p. 87.

37. James B. Jordan, *Pig Out? 25 Reasons Why Christians May Eat Pork* (Niceville, Florida: Transfiguration Press, 1992).

38. Gary North, *Tithing and the Church* (Tyler, Texas: Institute for Christian Economics, 1994).

19

MEASURING OUT JUSTICE

> *And if a stranger sojourn with thee in your land, ye shall not vex him. But the stranger that dwelleth with you shall be unto you as one born among you, and thou shalt love him as thyself; for ye were strangers in the land of Egypt: I am the* Lord *your God. Ye shall do no unrighteousness in judgment, in meteyard, in weight, or in measure. Just balances, just weights, a just ephah, and a just hin, shall ye have: I am the* Lord *your God, which brought you out of the land of Egypt. Therefore shall ye observe all my statutes, and all my judgments, and do them: I am the* Lord.
>
> LEVITICUS 19:33–37

The theocentric meaning of this law is equality before God's law. This includes strangers. The general principle is the familiar guideline known as the golden rule: do unto others as you would have them do unto you.[1]

A. Theocracy = Sanctuary

God reminded the Israelites in this passage that He had delivered them from Egyptian bondage, where they had been strangers. This deliverance had been an application of the fundamental theme of the Bible: the transition from wrath to grace.[2] The God who delivered His people in history (point two of the biblical covenant model: historical prologue) is also the God who lays down the law (point three).

One judicial application of God's historical deliverance of His people is the creation of a civil sanctuary: a place set apart judicially

1. Jesus said: "Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets" (Matt. 7:12). Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 16.

2. Gary North, *Millennialism and Social Theory* (Tyler, Texas: Institute for Christian Economics, 1990), p. 3.

by God for those who seek liberty under God.[3] The establishment of a boundary is an aspect of point three. In this case, the boundary was geographical. It was to serve as a judicial model for the whole world (Deut. 4:4–8).[4] Strangers in the land were expected to tell "the folks back home" of the benefits of dwelling in God's sanctuary. God prepared a place for strangers to live in peace through justice. This system of justice did not give strangers political authority, for they were outside the ecclesiastical covenant. But the system provided liberty. Conclusion: political pluralism is not biblically necessary for civil liberty.

There is no valid biblical reason to believe that God's ideal of sanctuary for strangers in a holy commonwealth has been annulled by the New Covenant. On the contrary, the sanctuary principle has been extended across the globe through Christ's universal gospel of deliverance (Matt. 28:18–20).[5] Nation by nation, the whole world is to become such a sanctuary.[6] But a biblical sanctuary is a theocratic commonwealth. That is to say, the extension of God's theocratic commonwealth means the extension of God's civil sanctuary: the transition from civil wrath to civil grace. The judicial evidence of this biblical civil grace is equality before the civil law. To maintain the blessings of liberty, all residents of a holy commonwealth are required to obey the Bible-revealed law of God. God made it quite clear: without corporate obedience to God's Bible-revealed law, no nation can maintain the blessings of civil liberty.[7]

B. Judicial Love

There are three commands in this passage: to avoid vexing a stranger, to love the stranger, and to use honest weights and measures.

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3. Gary North, *Political Polytheism: The Myth of Pluralism* (Tyler, Texas: Institute for Christian Economics, 1989), ch. 2.

4. Gary North, *Inheritance and Dominion: An Economic Commentary on Deuteronomy*, 2nd ed. (Dallas, Georgia: Point Five Press, [1999] 2012), ch. 8.

5. Kenneth L. Gentry, Jr., *The Greatness of the Great Commission: The Christian Enterprise in a Fallen World* (Tyler, Texas: Institute for Christian Economics, 1990).

6. Gary North, *Healer of the Nations: Biblical Blueprints for International Relations* (Ft. Worth, Texas: Dominion Press, 1987).

7. Those people who seek to defend the ideal of civil liberty—sometimes called "civil liberties"—apart from an appeal to God's Bible-revealed law-order are indulging their preference for humanism: Stoic natural law theology or Newtonian natural law theology. In either case, they have abandoned the Bible's explicit method of retaining the blessings of liberty: Trinitarian, covenantal, oath-bound constitutionalism.

1. Three Laws

We begin with the first. Leviticus 19:33 is a recapitulation of Exodus 22:21: "Thou shalt neither vex a stranger, nor oppress him: for ye were strangers in the land of Egypt." This is followed by the law commanding Israelites to love the resident alien (v. 34). One command is negative: do not vex. The other command is positive, or seems to be: exercise love. This positive injunction is followed by the phrase, "I am the LORD your God." This was a reminder to Israel of the sovereignty of the ultimate Enforcer.

The third law governs weights and measures. The question is: Are the vexation law (negative) and the weights and measures law (negative) two separate laws? Presumably, they are one law, for they are found in the same section. There is at least one link: the text's stated justification for each of these laws is historical, namely, the Israelites' experience in Egypt and their deliverance by God from Egypt. But these laws seem to be dealing with different issues: (1) the general public's vexing of strangers; (2) sellers' cheating of the general public.

The second law initially appears not to be a civil law, for it commands civility: "Thou shalt love him as thyself." That is, it seems to command a certain attitude toward someone. But biblical civil law does not command righteous behavior; it is limited to forbidding certain kinds of unrighteous behavior. It does not seek to compel goodness; it imposes negative sanctions against certain evil acts. That is to say, biblical civil law is not messianic. It establishes no positive civil sanctions for showing love to resident aliens. But without positive civil sanctions for righteous behavior, there is no civil law promoting righteous behavior: no sanctions = no law. Thus, if we interpret the command to love someone as meaning the inculcation of a positive attitude toward someone, this command is not a civil law. Also, no civil sanctions are attached to this law.

In apparent contrast, the third law is at the very heart of civil law: the enforcement of universal public standards of weights and measures. It forbids a public evil: "Ye shall do no unrighteousness in judgment." This is a restatement of Leviticus 19:15: "Ye shall do no unrighteousness in judgment: thou shalt not respect the person of the poor, nor honour the person of the mighty: but in righteousness shalt thou judge thy neighbour." The principle of the rule of law is publicly displayed in the enforcement of just weights and measures.

2. The Example of Egypt

The text's historical references to Egypt are two-fold: residence in Egypt and deliverance out of Egypt. The Israelites had not been loved in Egypt. The mark of that lack of love was their enslavement. They had been vexed by their one-time hosts, whose fathers' lives Joseph had saved. They had not been treated fairly. So perverse were the Egyptians—so unloving—that God intervened to deliver His people. In doing so, He imposed negative historical sanctions against the Egyptians. The warning in this case law is clear: those who refuse to honor God by loving their neighbors will be placed under God's negative historical sanctions.

But this raises a question: If the sin of the Egyptians in not loving the Israelites was their act of enslaving the Israelites, rather than a mere negative attitude toward the Israelites, was the focus of the anti-vexation law judicial rather than psychological? This is my interpretation of the law. Love in this case can legitimately be understood as treating people lawfully—as Bahnsen put it, "showing love to our fellow men (by protecting them from theft, rape, slander, abortion, sexual deviance, etc.)…."[8] If so, then the two laws are doubly linked: both prohibit evil public actions; both are justified in terms of the Israelites' experience in Egypt.

C. Negative Sanctions: The State as Intermediary

What about the state's negative civil sanctions? What does God's law establish as the proper negative sanction for refusing to love a stranger, in the sense of love as a positive attitude toward him? None is listed. This is to be expected, for civil government is authorized by God only to enforce laws prohibiting public evils. God does not authorize the state to enforce laws promoting the welfare of specific groups or individuals. An example of the distinction between positive and negative sanctions is the distinction between public health programs and socialized medicine. Tax-funded public health programs repel "invasions" of the entire community by specific germs, bacteria, or whatever. Socialized medicine transfers money from one person to pay for the medical treatment of someone else. It imposes a negative monetary sanction against one person in order to grant a positive monetary sanction—minus about 50% for handling—to another person (actually, two

8. Greg L. Bahnsen, *No Other Standard: Theonomy and Its Critics* (Tyler, Texas: Institute for Christian Economics, 1991), p. 205.

people: the patient and his physician). Frédéric Bastiat wrote in 1850 that civil law is "the collective organization of the individual's right to legitimate self-defense."[9] "Thus, as an individual cannot legitimately use force against the person, liberty, or property of another individual, for the same reason collective force cannot legitimately be applied to destroy the person, liberty, and property of individuals or classes."[10] The state is a defensive institution. The exercise of state power must be restrained by law and custom. Why? There are two reasons.

1. Savior State, Plundering State

The state is not to become messianic: a Savior State. The monopolistic authority of violence which the state lawfully possesses must be limited to preserving the peace. A judicial boundary must be placed on the exercise of such monopolistic power. If this is not done, then the state inevitably becomes an agency of political plunder. It is this development which threatens the judicial foundation of civil liberty. It creates the politics of revenge: getting even. This means either the politics of jealousy (wealth redistribution) or the politics of envy (wealth destruction).[11] Bastiat described the nature of the political problem:

> It is in the nature of men to react against the iniquity of which they are the victims. When, therefore, plunder is organized by the law for the profit of the classes who make it, all the plundered classes seek, by peaceful or revolutionary means, to enter into the making of the laws. These classes, according to the degree of enlightenment they have achieved, can propose two different ends to themselves when they thus seek to attain their political rights: either they may wish to bring legal plunder to an end, or they may aim at getting their share of it.
>
> Woe to the nations in which the masses are dominated by this last thought when they, in their turn, seize the power to make the law!
>
> Until that time, legal plunder is exercised by the few against the many, as it is among nations in which the right to legislate is concentrated in a few hands. But now it becomes universal, and an effort is made to redress the balance by means of universal plunder. Instead of being abolished, social injustice is made general. As soon as the disinherited classes have obtained their political rights, the first idea they seize upon is not to abolish plunder (this would suppose in them more wisdom than they can have),

9. Frédéric Bastiat, "The Law" (1850), in Bastiat, *Selected Essays on Political Economy*, translated by Seymour Cain; ed. George B. de Huszar (Princeton, New Jersey: Van Nostrand, 1964), p. 51.

10. *Ibid.*, p. 52.

11. Gonzalo Fernández de la Mora, *Egalitarian Envy: The Political Foundations of Social Justice* (New York: Paragon House, 1987).

> but to organize a system of reprisals against the other classes that is also injurious to themselves; as if, before justice reigns, a harsh retribution must strike all, some because of their iniquity, others because of their ignorance.
>
> No greater change nor any greater evil could be introduced into society than this: to convert the law into an instrument of plunder.[12]

Within three decades after Bastiat warned his fellow Frenchmen against the politics of plunder, itself a legacy of the French Revolution (1789–94), political plunder had spread to the English-speaking world. The free trade era in Great Britain, which had begun with the repeal of the corn laws in the mid-1840s, was steadily undermined after 1870 by a return to the older vision: empire.[13] This was paralleled by the political triumph of Bismarck and his conservative welfare state policies in the new nation of Germany after 1871, and by the political dominance of the Republican Party in the United States after 1861: high-tariff and (after 1890) pro-regulation.[14] The visible sign of this ideological transformation was the race for naval dominance. The First World War destroyed classical liberalism's policies of low taxes, low national debt, the international gold standard, free trade, and the free movement of peoples. The national passport became a way of life internationally. Under Nazism and Communism, so did the internal passport.

2. The Primacy of Grace

The exercise of state power must be restrained by law and custom. The state must not be allowed to become messianic: the Savior-Healer State. There is no need to use the threat of negative state sanctions to promote individual welfare, for God's grace is greater than man's depravity, total though this depravity may be in principle.[15] All that is needed for righteousness to triumph culturally is for public evil to be

12. Bastiat, "The Law," p. 55.

13. This new vision was promoted in word and deed by Cecil Rhodes and his successor, Alfred Milner. The Round Table group, begun in England and exported to other English-speaking nations, was the spearhead. John Marlowe, *Milner: Apostle of Empire* (London: Hamish Hamilton, 1976); Carroll Quigley, *The Anglo-American Establishment: From Rhodes to Clivedon* (New York: Books In Focus, 1981).

14. The Democratic Party, under President Grover Cleveland (1885–89; 1893–97), continued to defend classical liberalism, but then, under the influence of fundamentalist Presbyterian William Jennings Bryan after 1896, who failed three times to be elected President, it became even more interventionist than the Republican Party, and has remained so ever since.

15. The totality of man's depravity is judicial rather than historical. If man's total depravity were historical, society would be impossible. Total depravity refers to man's judicial condition before God as a covenant-breaker. James described it well: "For

suppressed by the state, including the public evil of messianic statism. Grace is primary; sin is secondary. This was true under the Old Covenant, but it is even more true today. Satan was definitively defeated at Calvary. The Holy Spirit has come. God extends His worldwide dominion representatively through His people, the church. Satan suffers progressive territorial and cultural losses representatively as the gospel, empowered in history by the Holy Spirit,[16] is extended by the church in history.[17] Yet even under the Old Covenant, grace was primary. God is greater than Satan; God's covenants are more blessed than Satan's. There was never any need for a savior state.

Because of the primacy of grace, God does not use the threat of negative civil sanctions against any corporate body in order to promote good deeds by individual members. He therefore does not use civil law to pressure men to do good. He uses civil law only to repress designated forms of evil. God in the garden did not threaten to impose negative sanctions for men's failure to dress the garden; He threatened to impose negative sanctions only for a violation of the judicial boundary around one tree. Similarly, biblical civil law imposes negative sanctions on those who commit prohibited acts. It does not offer positive sanctions to those who obey.

The list of biblical civil prohibitions is relatively short. A list of positive dominion acts is inherently limitless. Again, this is because grace is primary and sin is secondary. Grace is judicially unbounded; sin is judicially bounded. Example: Adam could lawfully eat from any tree of the garden (unbounded) except one (bounded). Biblical civil justice cannot be established through an attempt to create a limitless positive law code; the list of representative crimes (case laws) must be kept short enough to be publicly read to the people on special occasions (Deut. 31:10–13).[18] Thus, the state's job is not to threaten men for not doing good works, which would make the

whosoever shall keep the whole law, and yet offend in one point, he is guilty of all" (James 2:10). Guilty of all: total depravity.

16. Greg L. Bahnsen, *By This Standard: The Authority of God's Law Today* (Tyler, Texas: Institute for Christian Economics, 1985), pp. 195–97.

17. Grace is primary in eternity, too. The final resurrection leads to either the sin-free New Heaven and New Earth (Rev. 21, 22) or the lake of fire (Rev. 20:14–15). While both are eternal in duration, the New Heaven and New Earth allow expansion and development, as covenant-keepers work out their salvation with neither fear nor trembling. They will increase their knowledge of God and thereby increase their glorifying of His greatness. There is no ethical development for those in the lake of fire. They begin their existence here with impotence, which never ends.

18. North, *Inheritance and Dominion*, ch. 75.

state as unbounded in its jurisdiction as good works are. Its task is to threaten men for committing a finite number of illegal acts, which places a boundary around the state.

This means that the failure of individuals to take active steps to love their neighbors attitudinally is not a threat to the social order. God does not threaten His covenant organizations with negative sanctions for the failure of individual members to perform positive acts of kindness. God may not bless those individuals who refuse to perform positive acts of charity, but He does not threaten the other members of covenant organizations. Thus, the state has no role as an intermediary between God and man in cases concerning men's failure to act positively. God does not authorize, let alone require, the civil magistrate to step in and compel such acts of charity in the name of God, in order to avoid God's negative covenant sanctions.

D. Corporate Sanctions

The state imposes negative physical sanctions as God's delegated agent in history. If Israelite magistrates failed in this task with respect to individual law-breakers, God would raise up other agents of His justice to impose negative sanctions on the whole society. For example, when Judah refused to honor the sabbatical year of rest for the land, God raised up Babylon—strangers—to carry His people into captivity, so that the land would receive its long-awaited lawful rest. God's law had specified this as the appropriate negative sanction:

> And I will bring the land into desolation: and your enemies which dwell therein shall be astonished at it. And I will scatter you among the heathen, and will draw out a sword after you: and your land shall be desolate, and your cities waste. Then shall the land enjoy her sabbaths, as long as it lieth desolate, and ye be in your enemies' land; even then shall the land rest, and enjoy her sabbaths. As long as it lieth desolate it shall rest; because it did not rest in your sabbaths, when ye dwelt upon it (Lev. 26:32–35).

> Therefore he brought upon them the king of the Chaldees, who slew their young men with the sword in the house of their sanctuary, and had no compassion upon young man or maiden, old man, or him that stooped for age: he gave them all into his hand. . . . To fulfil the word of the LORD by the mouth of Jeremiah, until the land had enjoyed her sabbaths: for as long as she lay desolate she kept sabbath, to fulfil threescore and ten years (II Chron. 36:17, 21).

The biblical justification for the state's imposition of negative sanctions against individual law-breakers is God's threat to impose

negative corporate sanctions against the entire society if His Bible-revealed civil law is not enforced by civil magistrates. This is the distinctive principle of biblical civil government. I keep returning to this theme because it is central to biblical political economy. God's negative historical sanctions will be applied. The question is: By God or by the civil magistrates? Those in society who are innocent of a particular crime deserve protection from God's corporate sanctions.[19] The state is therefore authorized to impose negative sanctions on convicted law-breakers.

Biblical civil law is supposed to settle disputes between conflicting parties. The state intervenes and acts as God's representative agent for one or more parties—the victims—and against others.[20] But what about a case in which there is no victim to press charges? What about the so-called "victimless crimes"—the sale of hard drugs, pornography, and homosexual "favors"? If the state were not acting to deflect God's greater judgments on the entire society, there would be no justification for civil laws against victimless crimes, for there are no disputing private individuals who come before the civil court in such cases. As libertarian economist and legal theorist F. A. Hayek reminds us: "At least where it is not believed that the whole group may be punished by a supernatural power for the sins of individuals, there can arise no such rules from the limitation of conduct against others, and therefore from the settlement of disputes."[21] Covenantally, however, there will be future victims of unprosecuted crimes of this type: judicially innocent members of society who will become recipients of God's corporate negative sanctions in history. Like the righteous prophets who went into the Babylonian captivity of Israel, so will the innocent be in God's day of corporate wrath in history.[22]

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19. This is why, in the case of an unsolved murder in a field, civil magistrates from the nearest city were required to kill a heifer and have the priests sacrifice it in a nearby valley (Deut. 21:1–9). The blood covering had to be made, either by the shed blood of the convicted murderer or by the heifer.

20. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Appendix M; North, *Victim's Rights: The Biblical View of Civil Justice* (Tyler, Texas: Institute for Christian Economics, 1990).

21. F. A. Hayek, *Rules and Order*, vol. I of Law, *Legislation and Liberty*, 3 vols. (Chicago: University of Chicago Press, 1973), p. 101. It is interesting that the politically liberal Anabaptist theologian, Ronald Sider, took the line promoted by libertarians regarding victimless crimes: "…persons should be free to harm themselves and consenting associates…as long as they do not harm others or infringe on their rights." Sider, "An Evangelical View of Public Policy," *Transformation*, II (July/Sept. 1985), p. 6; cited by Bahnsen, *No Other Standard*, p. 214.

22. Meredith G. Kline and his disciples have denied the existence of predictable

E. To Love the Imperfect Stranger

"Thou shalt love him as thyself." Why does this positive injunction to love the stranger appear in a list of civil laws? There are no non-judicial criteria listed that indicate how the covenant-keeping individual can show love to the stranger. There are no negative civil sanctions for a refusal to perform positive acts of charity, let alone for not displaying a positive mental attitude toward strangers. Therefore, love in this case law must be interpreted judicially: treating the stranger lawfully, as if he were a full citizen of the holy commonwealth. It is the same meaning that Paul attributed to love: "Love worketh no ill to his neighbour: therefore love is the fulfilling of the law" (Rom. 13:10). Fulfilling the terms of the law is the public manifestation of love. This is what the civil law requires of the covenant-keeper.

What was the representative illegal act of not showing love in Israel? The oppression of strangers, widows, and orphans. How men treated the least powerful members of society served as a representation of their covenantal status before God,[23] just as Jesus warned regarding the final judgment:

> Then shall the King say unto them on his right hand, Come, ye blessed of my Father, inherit the kingdom prepared for you from the foundation of the world: For I was an hungred, and ye gave me meat: I was thirsty, and ye gave me drink: I was a stranger, and ye took me in: Naked, and ye clothed me: I was sick, and ye visited me: I was in prison, and ye came unto me. Then shall the righteous answer him, saying, Lord, when saw we thee an hungred, and fed thee? or thirsty, and gave thee drink? When saw we thee a stranger, and took thee in? or naked, and clothed thee? Or when saw we thee sick, or in prison, and came unto thee? And the King shall answer and say unto them, Verily I say unto you, Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me (Matt. 25:34–40).

But was there a specific representative public act in Israel that defined a prosecutable oppression? Yes. The next case law identifies it: using rigged weights and measures. A seller of goods was not allowed to use one set of weights for buying goods and another set for selling these goods. He was not allowed to use one set of weights for some customers and another set for other customers. To do so would have

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corporate sanctions of God in New Covenant history. Meredith G. Kline, "Comments on an Old-New Error," *Westminster Theological Journal*, XLI (Fall 1978), p. 184. Cf. Gary North, *Millennialism and Social Theory*, ch. 8. Kline and his disciples have thereby implicitly denied the biblical justification for civil laws against "victimless crimes."

23. North, *Authority and Dominion*, ch. 48.

testified to the existence of a God who imposes His law's standards in a partial manner. That is, it would have pointed to a God who shows favor to certain persons: one law for one group, another law for a different group. Again and again in Scripture, this is denied emphatically.[24] The essence of God's moral character, and therefore of His character as a judge, is the consistent application of His law.

Accompanying this law was an affirmation of God's character as a consistent judge, which also served as an implicit warning to the nation of Israel: "I am the LORD your God, which brought you out of the land of Egypt." God had brought negative sanctions against the Egyptians for their unrighteous behavior; He would do the same to Israel. He said this explicitly just before the next generation entered the land of Canaan: "And it shall be, if thou do at all forget the LORD thy God, and walk after other gods, and serve them, and worship them, I testify against you this day that ye shall surely perish. As the nations which the LORD destroyeth before your face, so shall ye perish; because ye would not be obedient unto the voice of the LORD your God" (Deut. 8:19–20).[25]

F. Open Access and Impartial Justice

When God delivered the laws governing the Passover to Moses in Egypt, He made it plain that the essence of biblical law is **impartiality**: "And when a stranger shall sojourn with thee, and will keep the passover to the LORD, let all his males be circumcised, and then let him come near and keep it; and he shall be as one that is born in the land: for no uncircumcised person shall eat thereof. One law shall be to him that is homeborn, and unto the stranger that sojourneth among you" (Ex. 12:48–49).[26] There would be one law governing access to the Passover; thus, there would be the rule of law in the nation. Access to the Passover was the archetype; predictable civil law was the manifestation of the more general judicial principle. That is to say, equal legal access to the means of grace is the standard of all biblical law: open to all men in history, and on the same terms. Therefore, all men within a society that is in covenant with the God of the Bible should have equal access to civil justice.

The Mosaic law's definition of what it meant to be an Israelite was this: lawful access to the Passover. But any adult male who con-

24. See the citations in chapter 14:D.
25. North, *Inheritance and Dominion*, ch. 23.
26. North, *Authority and Dominion*, ch. 14.

sented to circumcision in Israel could gain lawful access to Passover.[27] This made illegal any racial definition of "Israelite"; the definition was covenantal-legal, not racial. The establishment of the judicial category of a covenanted people was followed by a command to enforce the same legal order law on all residents of the nation. If anyone could become an Israelite, then there could be no permanently closed caste of citizens (Deut. 23:2–3). This also meant that there could be no permanently closed caste of civil rulers. Anyone under the jurisdiction of that law was a potential Israelite. Today's victim of injustice could become tomorrow's civil magistrate.[28] There was to be open access upward politically; the rulers were warned to impose God's civil law impartially. This was designed to prevent the politics of revenge.

G. Just Measures and a Just Society

The familiar Western symbol of justice is the blindfolded woman holding a balance scale. The blindfold symbolizes the court's unwillingness to recognize persons. The scale symbolizes fixed standards of justice: a fixed law applied to the facts of the case. Justice is symbolically linked to weights.

1. Quantification

Justice cannot be quantified,[29] yet symbolically it is represented by the ultimate determinant of quantity: a scale. An honest scale registers very tiny changes in the weight of the things being weighed. A scale can be balanced only by adding or removing a quantity of the thing being measured until the weights on each side are equal, meaning as close to equal as the scale can register.[30] Even here, the establishment of a precise balance may take several attempts. An average of the attempts then becomes the acceptable measure.

The ability of men to make comparisons is best exemplified in the implements of physical measurement. The language of physical measurement is adopted by men when they speak of making historical or

27. The Mosaic law did not specify how a woman could gain access apart from a circumcised male head of household.

28. "Tomorrow" is here meant in a figurative sense: it took 10 generations for Moabites and Ammonites to become full citizens (Deut. 23:3), i.e., men entrusted with the authority to impose civil sanctions.

29. See below: "Intuition and Measurement."

30. There are physical limits on the accuracy of scales. The best balance scales today can measure changes as small as one-tenth of a microgram. Grolier Encyclopedia (1990): "Weights and Measures." God's civil law calls for equal justice, not perfect justice. Cf. North, *Authority and Dominion*, ch. 19.

judicial comparisons. For example, the consumer balances his checkbook. This does not mean that he places it on a scale. Or he weighs the expected advantages and disadvantages of some decision.

The economist constructs an index number to compare "prices"—meaning prices of specific goods and services—in one period with those in another period. He assigns "weights" to certain factors in the mathematical construct known as an index number. He says, for example, that a change in the price of automobiles—Hondas rather than Rolls-Royces, of course—is more important to the average consumer than a change in the price of tea. This was not true, however, in Boston in 1773. So, the economist-as-historian has to keep re-examining his "basket of goods" from time to time: Which goods and services are more important to the average person's economic well-being? But there is no literal real-world basket of goods; there is no literal real-world average consumer; there is no means of literally weighing the importance of anything. Yet we can barely think about making comparisons without importing the symbolism of weights and measures.

The language of politics also cannot avoid the metaphor of measurement. The political scientist speaks of checks and balances in the constitutional order of a federalist system. These are supposed to reduce the likelihood of the centralization of power into the hands of a clique or one man. That is, there are checks and balances on the exercise of power. These are institutional, not literal.

The language of measurement is inescapable. This is an implication of point three of the biblical covenant: standards.[31] As surely as societies create bureaus that establish standards of measurement, so God has established permanent judicial standards. Both kinds of standards must be observed by law-abiding people.

2. The Representative Case

The preservation of just weights and measures in the Mosaic Covenant was important for symbolic reasons as well as economic reasons. As a case law, it represented a wider class of crimes. It was important in itself: prohibiting theft through fraud. But there was something unique about the case law governing weights and measures: it was representative of injustice in general. "Ye shall do no unrighteousness in judgment, in meteyard, in weight, or in measure." The language of

31. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 3.

unrighteousness and judgment has a wider application than merely economic transactions. "Ye shall do no unrighteousness in judgment: thou shalt not respect the person of the poor, nor honour the person of the mighty: but in righteousness shalt thou judge thy neighbour" (Lev. 19:15). This states the fundamental principle of all biblical justice.

To understand why weights and measures were representative of civil justice in general, we need to understand what was involved in the specific violation. The seller could better afford the specialized weighing equipment of his trade than the individual buyer could. He was therefore in a position to cheat the buyer by rigging the equipment. But the narrowly defined crime of using rigged measures was representative of the whole character of the civil order: a violation of justice at the most fundamental level. Analogous to the businessman, the judge was not to use his specialized skills or his authority to rig any case against one of the disputants. The legal structure was regarded as a specialized piece of equipment, analogous to a scale. No one in charge of its operations was allowed to tamper with this system in order to benefit any individual or class of individuals. To do so would constitute theft. Injustice is seen in the Bible as a form of theft. This was Samuel's message to Israel.

> And Samuel said unto all Israel, Behold, I have hearkened unto your voice in all that ye said unto me, and have made a king over you. And now, behold, the king walketh before you: and I am old and grayheaded; and, behold, my sons are with you: and I have walked before you from my childhood unto this day. Behold, here I am: witness against me before the LORD, and before his anointed: whose ox have I taken? or whose ass have I taken? or whom have I defrauded? whom have I oppressed? or of whose hand have I received any bribe to blind mine eyes therewith? and I will restore it you. And they said, Thou hast not defrauded us, nor oppressed us, neither hast thou taken ought of any man's hand. And he said unto them, The LORD is witness against you, and his anointed is witness this day, that ye have not found ought in my hand. And they answered, He is witness (I Sam. 12:1–5).

Injustice is also linked with false weights and measures. Isaiah made all these connections clear in his initial accusation against the rulers of Israel: "Thy silver is become dross, thy wine mixed with water: Thy princes are rebellious, and companions of thieves: every one loveth gifts, and followeth after rewards: they judge not the fatherless, neither doth the cause of the widow come unto them" (Isa.

1:22–23).[32] False measures in silver and wine; princes in rebellion against God but companions of thieves; universal bribe-seeking; oppression of widows and orphans: all are linked in God's covenant lawsuit brought by the prophet. It was all part of a great spiritual apostasy—an apostasy that would be reversed by the direct intervention of God: "Therefore saith the Lord, the LORD of hosts, the mighty One of Israel, Ah, I will ease me of mine adversaries, and avenge me of mine enemies: And I will turn my hand upon thee, and purely purge away thy dross, and take away all thy tin: And I will restore thy judges as at the first, and thy counsellors as at the beginning: afterward thou shalt be called, The city of righteousness, the faithful city" (Isa. 1:24–26). When the rulers of Israel's northern kingdom remained unwilling to enforce God's law representatively, generation after generation, God raised up Assyria to bring corporate negative sanctions for Him (Isa. 10:5–6).

Because weights and measurements are representative of the moral condition of society in general, the prophets used the metaphor of weights and measures in bringing their covenant lawsuits against individuals and nations. The Psalmist had set the example: "Surely men of low degree are vanity, and men of high degree are a lie: to be laid in the balance, they are altogether lighter than vanity" (Ps. 62:9). Micah castigated the whole society, warning of judgment to come, for they honored "the statutes of Omri" and did the works of his son Ahab (Mic. 6:16).

> The LORD's voice crieth unto the city, and the man of wisdom shall see thy name: hear ye the rod, and who hath appointed it. Are there yet the treasures of wickedness in the house of the wicked, and the **scant measure** that is abominable? Shall I count them pure with the **wicked balances**, and with the bag of **deceitful weights**? For the rich men thereof are full of violence, and the inhabitants thereof have spoken lies, and their tongue is deceitful in their mouth (Mic. 6:9–12).

The essence of their rebellion, Micah said, was the injustice of the civil magistrates: "The good man is perished out of the earth: and there is none upright among men: they all lie in wait for blood; they hunt every man his brother with a net. That they may do evil with both hands earnestly, the prince asketh, and the judge asketh for a reward; and the great man, he uttereth his mischievous desire: so they wrap it up" (Mic. 7:2–3).

32. Gary North, *Restoration and Dominion: An Economic Commentary on the Prophets* (Dallas, Georgia: Point Five Press, 2012), ch. 3.

Daniel's announcement to the rulers of Babylon regarding the meaning of the message of the handwriting on the wall is perhaps the most famous use in Scripture of the imagery of the balance. "And this is the writing that was written, MENE, MENE, TEKEL, UPHARSIN. This is the interpretation of the thing: MENE; God hath numbered thy kingdom, and finished it. TEKEL; Thou art weighed in the balances, and art found wanting. PERES; Thy kingdom is divided, and given to the Medes and Persians" (Dan. 5:25–28). Corrupt measures are a token—representative—of moral corruption. To be out of balance judicially is to be out of covenantal favor. The representative civil transgression in society is the adoption of false weights and measures.

H. Intuition and Measurement

"Add a pinch of salt." How many cooks through the centuries have recommended this unspecific quantity? There are cooks who cannot cook with a recipe book, but who are master chefs without one. Their skills are intuitive, not numerical. This is true in every field.

1. Analogical Reasoning

There are limits to measurement because there are limits to our perception. There are also limits on our ability to verbalize or quantify the measurements that we perceive well enough to act upon. Oskar Morgenstern addressed this problem in the early paragraphs of his classic book, *On the Accuracy of Economic Observations*.[33] Our economic knowledge is inescapably a mixture of objective and subjective knowledge.[34] That is to say, we think as persons; we are not comput-

33. Oskar Morgenstern, *On the Accuracy of Economic Observations*, 2nd ed. (Princeton, New Jersey: Princeton University Press, 1963). Morgenstern wrote a book on game theory with John von Neumann, one of the most gifted mathematicians of the twentieth century. Morgenstern was aware of the limits of mathematics as a tool of economic analysis. A more recent treatment of the problem is Andrew M. Kamarck's *Economics and the Real World* (Philadelphia: University of Pennsylvania Press, 1983). See also Thomas Mayer, *Truth versus Precision in Economics* (Hampshire, England: Elgar, 1993).

34. Morgenstern wrote: "All economic decisions, whether private or business, as well as those involving economic policy, have the characteristic that quantitative and non-quantitative information must be combined into one act of decision. It would be desirable to understand how these two classes of information can best be combined. Obviously, there must exist a point at which it is no longer meaningful to sharpen the numerically available information when the other, wholly qualitative, part is important, though a notion of its 'accuracy' or 'reliability' has not been developed. . . . There are many reasons why one should be deeply concerned with the 'accuracy' of quantitative economic data and observations. Clearly, anyone making use of measurements and data wishes them to be accurate and significant in a sense still to be defined specifically. For that reason a level of accuracy has to be established. It will depend first of all on the

ers. We do not think digitally. We think analogically, as persons made in God's image. We are required to think God's thoughts after Him. To do this, we need standards provided by God that are perceptible to man. God has given us such standards (point three of the biblical covenant model). We also need to exercise judgment in understanding and applying them (point four). This judgment is not digital; it is analogical: thinking God's thoughts after Him. We are required by God to assess the performance of others in terms of God's fixed ethical and judicial standards.

In order to achieve a "fit" between God's standards and the behavior of others, we must interpret God's objective law (a subjective task), assemble the relevant objective facts (a subjective task), discard the irrelevant objective facts (a subjective task), and apply this law to those facts (a subjective task). The result is a judicially objective decision. At every stage of the decision-making or judgment-rendering process, there is an inescapably personal element, for which we are held personally responsible by God.[35]

2. Objective Facts Interpreted Subjectively

When we speak of objective facts, we often invoke the language of physical measurement. This is because we think analogically. Making subjective judgments is analogous to measuring things objectively. Yet we never measure things objectively, meaning exclusively objectively. It is men who do the measuring, and men are not machines—and even machines have limits of perception. We ask: "Is the balance even?" "Is the bubble in the level equidistant between two points?" But at some point, we say: "It's a judgment call." Analogously, we ask of some people's offers: "Is this on the level?" Discovering the answer is a judgment call: an evaluation based on one's observation of something that is beyond the limits of one's ability to perceive distinctions.

Consider the task of an umpire or referee in any sport. He is a person. He makes judgment calls. In modern philosophy, we find that the major schools of thought are analogous to the umpire's standard

particular purpose for which the measurement is made. . . . The very notion of accuracy and the acceptability of a measurement, observation, description, count—whatever the concrete case might be—is inseparably tied to the use to which it is to be put. In other words, there is always a theory or model, however roughly formulated it may be, a purpose or use to which the statistic has to refer, in order to talk meaningfully about accuracy. In this manner the topic soon stops being primitive; on the contrary, very deep-lying problems are encountered, some of which have only recently been recognized." Morgenstern, *Accuracy*, pp. 3–4.

35. See Appendix E.

explanations of his decision. In baseball, the umpire "calls a strike." He announces that the pitched baseball passed within the strike zone of the batter's body (a variable in terms of his height) and above home plate. The batter protests. It was a "ball," he insists: either outside his strike zone or not above home plate. The umpire offers one of three answers. These three answers are expressions of the three dominant views of Western epistemology.

"I call 'em as they are." (Newton)
"I call 'em as I see 'em." (Hume)
"They are what I call 'em." (Kant)[36]

To make a biblically valid judgment regarding the public record of the event under scrutiny, judges must perceive the limits of the law and the limits of the records. The public record of the event must reveal (represent) an act that took place within the "strike zone" of God's law. The actor must clearly have violated that zone—that boundary—of God's law. In the language of the common law courts, it must have violated that boundary "beyond reasonable doubt." The language of the law is imprecise here because the act of rendering judgment is imprecise. Yet juries decide, judges hand down punishments, and society goes on.

3. Intuition and Creation

Intuition cannot be verbalized, catalogued, or quantified, for by definition it possesses no rational structure, but it exists nevertheless. Every philosophical system ultimately must appeal to intuition to bridge the chasm between mind and events.[37] Without such a bridge, according to humanists, human choice and therefore personal responsibility disappear into one of three kinds of universe: a chaotic cosmos, a deterministic cosmos of mechanical-mathematical cause and effect, or a dialectical cosmos: mechanism infused by randomness, and vice versa.[38] (All three are said to be governed by the second law of thermodynamics and are headed for the heat death of the universe.)[39]

36. There is a fourth possible reply: "Shut up. You're only a figment of my imagination." (Berkeley)

37. For case studies of this assertion in the field of economics, see Gary North, "Economics: From Reason to Intuition," in North (ed.), *Foundations of Christian Scholarship: Essays in the Van Til Perspective* (Vallecito, California: Ross House Books, 1976), ch. 5.

38. James Gleick, *Chaos: Making a New Science* (New York: Viking, 1987).

39. Gary North, *Is the World Running Down? Crisis in the Christian Worldview* (Tyler, Texas: Institute for Christian Economics, 1988), ch. 2.

There is a fourth possibility: a covenantal, providential, created cosmos. Here is the biblical solution to the problem of human knowledge: the doctrine of creation. The world was created by God so that men, made in God's image, may exercise dominion over it. This theory of knowledge also relies on intuition: biblically informed intuition. Intuition is an inescapable concept. It is never a case of "intuition vs. no intuition." It is always a case of whose intuition according to whose standards.

Spiritual maturity is the ability to make biblically well-informed judgments. Christians must presume that intuitive judgments that come after years of studying God's Bible-revealed laws and making decisions in terms of them will be more reliable—i.e., more pleasing to God—than intuitive judgments that come from other traditions or that are the products of unsystematic approaches. There is no way to test the accuracy of this presumption except by observing God's sanctions in history on those groups that are under the authority of specifically covenanted judges.[40]

I. Objective Standards

God has decreed everything that happens. History happens exactly as He decreed it. He evaluates it, moment by moment, in terms of His permanent standards. This judgment is objective because God makes it, and it is subjective because God makes it.

1. Subordination

Man is responsible for thinking God's thoughts after Him. Man must obey God by conforming his thoughts and actions to God's law. Men do not have the ability to read God's mind (Deut. 29:29), but they do have the ability to obey. Men do not issue valid autonomous decrees, nor does history follow such decrees. God proposes, and then God disposes.[41]

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40. If God's sanctions in history are random in the New Covenant era, as Meredith G. Kline insists that they are, then there is no way to test this presumption. Intuition-based decisions would become as random in their effects as God's historical sanctions supposedly are.

41. The radical humanism of Marx's partner Frederick Engels can be seen in his statement that "when therefore man no longer merely proposes, but also disposes—only then will the last alien force which is still reflected in religion vanish; and with it will also vanish the religious reflection itself, for the simple reason that then there will be nothing left to reflect." Engels, *Herr Eugen Dühring's Revolution in Science* (Anti-Dühring) (1878), in Karl Marx and Frederick Engels, *Collected Works* (New York: International Publishers, 1987), vol. 25, p. 302.

The same is true of weights and measures. There are objective standards, and these are known perfectly by God. This knowledge is a mark of His sovereignty. "Who hath measured the waters in the hollow of his hand, and meted out heaven with the span, and comprehended the dust of the earth in a measure, and weighed the mountains in scales, and the hills in a balance?" (Isa. 40:12). Man must seek to conform his actions and judgments to these objective standards. He does so by discovering and adopting fixed standards. Physical standards are the most readily enforced. The archetypical standards are weight and measure. Even the passage of time is assessed by means of a measure. In earlier centuries, these measures were frequently governed by weight, such as water clocks or hourglasses filled with sand.[42] Measures have be perfected over time, most notably measurements of time itself.[43] As measures improve, buyers and sellers benefit: reduced uncertainty.

Occult man sees ritual as a means of gaining supernatural power for himself. Christian man sees ritual as a means of worshiping God and gaining dominion over himself and his environment, to the glory of God. Similarly, occult man sees measurement as a means of obtaining supernatural power.[44] Christian man sees measurement as a tool of dominion, beginning with self-dominion. The West is the product of such a view of measurement. A man wearing a wristwatch is someone under the influence of the Christian view of time. In the ancient pagan world, priests were the monopolists of calendars; this control was a major factor in maintaining their power.[45] In the West, very few educated people understand the details of the astronomical basis of calculating time, let alone modern cesium atom clocks, but

42. The sun dial was an exception, but it could not be used at night or on cloudy days.

43. It can be persuasively argued that improvements in the measurement of time in the late medieval and early modern eras were the most important physical advances in the history of Western Civilization, without which few of the other advances would have been likely. See David S. Landes, *Revolution in Time: Clocks and the Making of the Modern World* (Cambridge, Massachusetts: Belknap/Harvard University Press, 1983).

44. The design and construction of the Cheops pyramid stands as the most stupendous surviving manifestation of this faith in weight and measure. See (with reservations) Peter Tompkins, *Secrets of the Great Pyramid* (New York: Harper Colophon, [1971] 1978); Piazzi Smyth, *The Great Pyramid: Its Secrets and Mysteries Revealed*, 4th ed.(New York: Bell, [1880] 1978).

45. This was especially true of ancient agricultural dynasties that were dependent on rivers. Karl Wittfogel, *Oriental Despotism: A Comparative Study of Total Power* (New Haven, Connecticut: Yale University Press, [1957] 1964), pp. 29–30. For an extraordinary examination of ancient man's priestly mastery of both astronomy and time, see Giorgio de Santillana and Hertha von Dechend, *Hamlet's Mill: An essay on myth and the frame of time* (Boston: Gambit, [1969] 1977).

virtually everyone has ready access to a calendar and a clock with an alarm. No longer does an elite priesthood exercise power through its monopolistic knowledge of the astronomical calendar. The advent of cheap printed calendars transferred enormous power to the individual.[46] Cheap calendars and clocks decentralized power, but thereby made individuals more responsible for the use of time, man's only irreplaceable resource.

The universality of personal time pieces makes it impossible for employers or sellers to cheat large numbers of people regarding time. Because access to information is cheap, time-cheating becomes more difficult. In fact, the employee is far more able to cheat the employer.[47] The employee is the seller of services. If he is paid by the hour, he is tempted to find ways to collect his pay without delivering the work expected from him. The salaried employee cheats more easily on his time account; the commissioned salesman cheats more easily on his expense account.

2. Specialized Knowledge

The biblical law of weights and measures teaches that the seller—the receiver of money—is identified as legally responsible. This requires an explanation. The buyer (consumer) has legal control over the distribution of the most marketable commodity: money. He possesses greater flexibility and therefore greater economic authority in the overall economy. We speak of the customer's authority in a free market.[48] Then why is the seller singled out by biblical law as the potential violator? Doesn't greater responsibility accompany greater authority (Luke 12:47–48)?[49]

The legal question must be decided in terms of comparative authority in specific transactions, not comparative authority in the economy generally. A seller of goods and services possesses highly specialized knowledge regarding his market. Cheating by a seller of goods and services is therefore more likely than cheating by a buyer,

46. Benjamin Franklin made himself famous throughout the American colonies with *Poor Richard's Almanack*.

47. The most graphic recent examples of such cheating in the modern office are computer games that allow a player to tap a key on the keyboard so that a fake spreadsheet appears on the screen. When a supervisor approaches the player, he taps the key, and it then appears as though he has been studying some intricate aspect of the business: above all, a numerical aspect.

48. See below, "Competition and the Margins of Cheating."

49. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 28.

because the seller has an advantage in information. This is why biblical law singles out weights and measures as the representative implements of justice. Physical implements of measurement can be created more easily than other kinds of evaluation devices. The existence of a precise (though never absolute) physical standard makes it relatively easy to create close approximations for commercial use.[50] The availability of devices and techniques to specialists employed as agents of the civil government, in the name of the buyers, allows the operation of checks and balances on the checks and balances. The state therefore has a greater ability to police the sellers in this area than in most other areas.

On what biblical basis can magistrates police weights and measures? Where is the victim? Where is the court case? The problem here is analogous to the problem of measuring pollution or noise. The victims are not easy to identify, for they may not know that they have been cheated. The extent of the cheating cannot easily be ascertained by the victims in retrospect. The cost of gathering this information is too high. As a cost-saving measure (the language of measurement is inescapable) for past victims and potential victims, the state imposes public standards, and sellers are required to conform. As in the case of protecting potential victims of speeding automobiles, the state establishes boundaries in advance. The police impose negative sanctions for violations of speed limits, even though the speeder's victims have not publicly complained against this particular speeder. The speeding driver did increase the statistical risks of having an accident, so there were victims.[51] They are represented by the police officer who catches the speeder.[52]

50. The United States National Bureau of Standards (founded in 1901, but in principle authorized by the United States Constitution of 1787) establishes key lengths by using a platinum-iridium bar stored at a specific temperature. This, in turn, is based on a not quite identical bar stored by the International Bureau of Weights and Measurements in Sèvres, France. These bars do not match. Also, when cleaned, a few molecules are shaved away. Scientists now prefer to measure distance in terms of time and the speed of light. A meter is defined today as the distance a light particle travels in one 299,792,458th of a second. Time is measured in terms of the number of microwave-excited vibrations of a cesium atom particle when excited by a hydrogen maser. One second is defined as the time that passes during 9,192,631,770 cesium atomic vibrations. Malcolm W. Browne, "Yardsticks Almost Vanish As Science Seeks Precision," *New York Times* (Aug. 23, 1993).

51. North, *Authority and Dominion*, ch. 41:B.

52. Fines should be used to set up a restitution fund to pay victims of drivers who are not subsequently arrested and convicted. Idem. The history of civil law in the West since the Norman Conquest of England in 1066 has been the substitution of fines for restitution: Bruce L. Benson, *The Enterprise of Law: Justice Without the State* (San Francis-

J. Competition and the Margins of Cheating

The International Bureau of Standards was established by the General Conference on Weights and Measures in 1875. National governments covenanted with each other by the Treaty of the Meter. The nations' governments are pledged to honor the standards agreed upon. These standards did not originate in 1875, however, nor did they originate with civil government. It does not require a treaty to establish such standards. There can be official standards, but unofficial standards are far more widespread. The free market can and does establish such standards. In fact, the more technologically innovative a society is, the less likely that a civil government will be the primary creator or enforcer of the bulk of the prevailing standards. When it comes to establishing standards, the state's salaried bureaucrats are usually playing catch-up with profit-seeking innovators. The market establishes initial standards. Bureaucrats then ratify them by committee.

1. Standards and Boundaries

All standards have boundary ranges. Market standards are likely to be less precise technically than civil standards, for participants in markets understand that the development, selection, and enforcement of standards are not cost-free activities. The degree of variance from a precise model or standard depends upon the costs and benefits of enforcement. It also depends on the locus of sovereignty of such enforcement: the customers. In a free market, it is the buyer of goods and services (i.e., the seller of money) who possesses economic authority, not the seller of goods and not the state. The customer has greater economic flexibility to take his money elsewhere than the entrepreneur or politician does. That is to say, the cost to him of seeking and obtaining an alternative offer for what he wants to sell (money) is normally far lower than the cost to the seller of specialized goods or services to seek and obtain an alternative offer. The seller of money has maximum liquidity. Money has been accurately defined by Mises as the most marketable commodity;[53] hence, the customer, as the seller of money, is authoritative economically.

The seller uses implements to make measurements. No seller can do without such implements, even if he is selling services. At the very least, he will use a clock. The seller is warned by God to make sure

co: Pacific Research Institute for Public Policy, 1990), ch. 3.

53. Ludwig von Mises, *The Theory of Money and Credit* (New Haven, Connecticut: Yale University Press, [1912] 1953), pp. 32–33.

that he uses these implements consistently as he goes about his business. Yet this is not quite true. The seller is not to supply less than the standard determines; he may lawfully give more. If he gives any buyer less than he has said he is giving, he steals from him. If he gives a buyer more than he says, he is not stealing. He is offering charity, or giving a gift, or being extra careful, or building good will to increase repeat sales. So, the business owner is allowed to give more than he has indicated to the buyer that the buyer will receive; he is not allowed to give less. The seller need not tell the buyer that he is giving an extra amount, but he is required to tell him if he is giving less.[54] The boundary, therefore, is a seller's floor rather than a ceiling.

Sellers compete against sellers; buyers compete against buyers. This is the fundamental principle of free market competition, one which is not widely understood. The buyer is playing off one seller against another when he bargains, even if the second seller is a phantom;[55] the seller is playing off buyer against buyer. Buyers compete directly against sellers only when both of them have imperfect information regarding the alternatives. No one knowingly pays one ounce of silver for something that is selling next door for half an ounce. The seller will not sell something to a buyer at a low price if he knows that another buyer is waiting in line to buy at a higher price. Neither will a buyer buy at a high price if he knows that another seller waits across the hallway to sell the same item at a lower price.

This being the case, it should be obvious why sellers who use false scales find themselves pressured by market forces to re-set their scales closer to the prevailing market standard. Their competitors provide a greater quantity of goods and services for the same price. It may take time for word to spread, but it does spread. Buyers like to brag about the bargains they have bought. Even though their tales of bargains increase the number of competing buyers at bargain shops, and therefore could lead to higher prices in the future, they do like to brag. This bragging gets the word out.[56] A seller who consistently

54. A manager or employee must be precise: to give more is to steal from the owner; to give less is to steal from the buyer.

55. The phantom buyer may walk in this afternoon. The seller is not sure. Neither is the buyer.

56. There are limits to this. If the buyer has found an exceptionally inexpensive seller, especially a small, local seller who may be ill-informed about market demand, and if he expects to return to make additional purchases, he may not say anything to potential competitors. He does not want to let the seller know that there are many buyers available who are willing to pay more. There is a "bragging range." That is, there are boundaries on the spread of accurate information. Accurate information is not a free good.

sets his scales below the prevailing competitive standard risks losing customers. This pressure does not mean that all or even most scales will be set identically, but it does lead to *a market standard of cheating*: competitive boundaries. The better the information available to buyers, the narrower the range of cheating. None of this assumes the existence of a standard enforced by civil government.

2. The Scales of Justice

Much the same is true of the scales of civil justice. Word spreads about the availability of righteous civil justice. If there is open immigration, as there was supposed to be in Mosaic Israel, it is possible for those suffering injustice to seek justice elsewhere. (This is a major advantage of federalism: those living in one state can move to another if they disapprove of the prevailing local situation. This allows the testing of ideas regarding the proper role of civil government.) The Bible assumes that word about national justice does spread:

> Behold, I have taught you statutes and judgments, even as the LORD my God commanded me, that ye should do so in the land whither ye go to possess it. Keep therefore and do them; for this is your wisdom and your understanding in the sight of the nations, which shall hear all these statutes, and say, Surely this great nation is a wise and understanding people. For what nation is there so great, who hath God so nigh unto them, as the LORD our God is in all things that we call upon him for? And what nation is there so great, that hath statutes and judgments so righteous as all this law, which I set before you this day? (Deut. 4:5–8)[57]

The existence of a righteous nation in the midst of a fallen world of nations can lead to a competitive uplifting of civil justice in those nations that experience a net migration out. Emigration pressures unjust nations to revise their judicial standards. This is why totalitarian regimes place barriers at their borders. The threat of the loss of "the best and the brightest," also known as the brain drain, is too great. The barbed wire goes up to place a boundary around the "ideological paradises."

The tearing down of the Berlin Wall in late 1989 was a symbolic event that shook Europe. It was the visible beginning of the rapid end of the legacy of the French Revolution of 1789: left-wing Enlightenment humanism. We can date the demise of that tradition in the West: August 21, 1991, when the Soviet Communist coup begun on

57. Gary North, *Inheritance and Dominion: An Economic Commentary on Deuteronomy*, 2nd ed. (Dallas, Georgia: Point Five Press, [1999] 2012), ch. 8.

August 19 failed. Boris Yeltsin and his associates sat in the Russian Parliament building for three days, telephoning leaders in the West, sending and receiving fax messages, sending and receiving short wave radio messages, and ordering deliveries of Pizza Hut pizza. So died the French Revolutionary tradition. Sliced pizza replaced the guillotine's sliced necks. It was a sign that the economically devastating effects of Marxist socialism were the inevitable product of injustice.[58] People in Marxist paradises wanted to escape. Given the opportunity, they would "vote with their feet." With the Berlin Wall down, there was an immediate exodus from East Germany. Simultaneously, Western justice began to be imported by East Germany. This leavening effect was positive. Within months, East and West Germany were legally reunited.

For this emigration process to serve as a national leaven of righteousness, there must be sanctuaries of righteousness. There must be just societies that open their borders to victims of injustice, including economic oppression. This is what Mosaic Israel offered the whole ancient world: sanctuary. This was God's means of pressuring unrighteous nations to become more just. He imposed a cost on evil empires: the loss of productive people to Israel.

On the other hand, widespread immigration can pressure a just society to become less just if the newcomers gain political authority. If they are allowed to vote, they will seek to change some aspects of the sanctuary nation's legal structure. For example, they may seek to legislate compulsory welfare payments: politically coerced subsidies

58. This was the message of F. A. Hayek in his book, *The Road to Serfdom* (1944), which became an international best-seller. Western intellectuals scoffed at its thesis for over four decades, though in diminished tones after 1974, when he won the Nobel Prize in economics. The scoffing stopped in 1989 with the fall of the Berlin Wall and the collapse of the Soviet Union's economy. A few months before he died in 1992, Hayek was awarded the United States medal of freedom. He had outlived the Soviet Union. He also had outlived most of the original scoffers. As he told me and Mark Skousen in an interview in 1985, he had never believed that he would live to see the acclaim that came to him after 1974. (Few men who move against the intellectual currents of their eras live long enough to see such vindication. He died in March, 1992, at the age of 92, receiving international acclaim: "In praise of Hayek," *The Economist* (March 28, 1992); John Gray, "The Road From Serfdom," *National Review* (April 27, 1992). As *The Economist* noted, "In the 1960s and 1970s he was a hate-figure for the left, derided by many as wicked, loony, or both." By 1992, no one remembered such scurrilous attacks as Herman Finer's *The Road to Reaction* (1948). Milton Friedman, who was on the same University of Chicago faculty as Hayek and Finer, wrote that Hayek "unquestionably became the most important intellectual leader of the movement that has produced a major change in the climate of opinion." *National Review*, op. cit., p. 35.

paid to immigrants by the original residents.[59] It is not God's intention to pay for a rising standard of justice in evil empires by means of falling standards of justice in covenanted sanctuary nations. His goal is to raise standards of justice everywhere. So, political pluralism is prohibited by God's law. Suffrage (the vote) is by covenantal affirmation and church membership, not mere geographical residence. This is why the biblical concept of sanctuary requires a biblical judicial boundary: covenantal citizenship.[60]

If justice produced indeterminate economic effects, and if injustice produced indeterminate economic effects, there would be no economic pressure on totalitarian regimes to tear down the boundary barriers. But justice does not produce indeterminate economic effects. Similarly, if the social world were what Meredith G. Kline insisted that it is—a world in which God's visible sanctions in history are indeterminate for both covenant-keeping and covenant-breaking—then there could be no historical resolution of the competition between civil righteousness and civil perversity. This quasi-Manichean conclusion is the implicit and sometimes explicit assumption of amillennialism.[61] The leaven of justice in such a world would have no advantage over the leaven of injustice. But there is no neutrality in life; in a world of totally depraved men, such cultural neutrality could not be maintained for long. The leaven of evil would triumph. Yet it does not triumph, long term. Pharaonic tyrannies have all collapsed or become culturally impotent over the centuries. This fact testifies to mankind that God's sanctions in history are not indeterminate. Honesty really is the best policy, as Ben Franklin long ago insisted. In the competition between good and evil, the leaven of righteousness spreads as time goes on. Its visible results are so much better (Lev. 26:1–13; Deut. 28:1–14).

3. The Forces of Competition

The tremendous pressure of international economic competition cannot be withstood for long. It brought down Soviet Communism. Marxist tyrannies could not gain the economic fruits of righteousness without the moral roots.[62] They could not permit a modern economy

59. Gary North, "The Sanctuary Society and Its Enemies," *Journal of Libertarian Studies*, 13 (Summer 1998), pp. 205–19.

60. North, *Political Polytheism*, ch. 2.

61. North, *Millennialism and Social Theory*, pp. 76–92; ch. 5.

62. Konstantin Simis, *USSR: The Corrupt Society: The Secret World of Soviet Capitalism* (New York: Simon & Schuster, 1982).

based on computers, data bases, fax machines, and rationally allocated capital in their rigged, corrupt, fantasy world of central economic planning and fiat money.[63] The reality of the Russian workers' saying under Communism could not be suppressed forever: "We pretend to work, and they pretend to pay us." That inescapable reality led to a falling standard of living and the eventual collapse of European Communism.

The international free market has no universally enforceable standards of weights and measures, yet it operates more successfully than any other economic system in history. Private arbitration sometimes is invoked. Usually, national standards are closely observed by market participants. There are great and continuing debates over which standards should be adopted internationally, especially as international trade increases. But even without formal political resolutions to these debates, the international market continues to flourish. In the medieval world, there was an internationally recognized "law merchant," and it has been revived in modern times.[64]

4. Gresham's Law

But what about Gresham's Law? "Bad money drives out good."[65] This is the pessimillennial view of history as applied to monetary theory. But Gresham's Law is misleading. It has an implied condition, but only people who understand economics recognize the unique nature of this condition. The law only applies when a civil government establishes and enforces a price control between two kinds of money. Then the artificially overvalued money remains in circulation, while the artificially undervalued money goes into hoards, into the black market, or is exported. Bad money drives out good money only when governments pass laws that attempt to override the free market's assessment of relative monetary values. This is not to say that there

63. On the truly fantastic nature of the Soviet economy, see Leopold Tyrmand, *The Rosa Luxemburg Contraceptives Cooperative: A Primer on Communist Civilization* (New York: Macmillan, 1972).

64. Benson, *Enterprise of Law*, pp. 30–35, 62, 224–27. See also Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Massachusetts: Harvard University Press, 1983), ch. 11. The Jews who dominate the international diamond trade make bargains without public contracts, and they never appeal to the state to settle disputes. These merchants have their own courts that settle disputes. It seems likely that they do not pay income taxes on every profitable trade.

65. "Bad money drives out good money," the law really states. Yet in a very real sense, the familiar formulation is correct: bad money does drive out good. It creates black markets, cheating, and many other evils.

should not be civil laws against counterfeiting, but it does mean that counterfeiters must be very skilled to compete in a free market order.

The same is true of religion. Christians contend with cults, but cults are imitations of Christianity. Today, we see no fertility cults that self-consciously imitate the older Canaanite religions. Bacchanalia festivals are no longer with us, at least not in a self-consciously cultic form.[66] New Age advocates may seem numerous, especially in Hollywood and New York City, but there are very few openly New Age congregations of the faithful. Religious counterfeits must take on the characteristic features of Christianity in order to extend their influence beyond traditional borders. The rites of Christianity have many imitations around the globe, but the rites of Santeria do not.[67]

A wise counterfeiter will not try to pass a bill that has a picture of Marilyn Monroe on it. Successful counterfeits in a competitive market must resemble the original. This is why there is a tendency for covenant-breakers to conform themselves to the external requirements of God's law until they cannot stand the contradiction in their lives any longer.[68] Then they rebel, and God imposes negative sanctions, either through His ordained covenant representatives or through the creation.[69]

K. A Final Sovereign

The Bible identifies judges as covenantal agents of God. Unlike the free market, where consumers are sovereign, the state requires a voice of final earthly authority. This does not mean that one person or one institution has final authority. Biblically, no institution or person possesses such authority in history; only the Bible does. But there must be someone who announces "guilty" or "not guilty." Someone must impose the required sanctions. Civil sanctions are imposed by the state.

This means that legal standards must not fluctuate so widely that men cannot make reasonable predictions about the outcome of trials. If there is no predictability of the outcome, then there will be endless trials. Conflicting parties will not settle their disputes before they enter the courtroom. A society should encourage predictable outcomes;

66. Mardi Gras and Carnival are holdovers of chaos festivals.

67. Bill Strube, "Possessed with Old Fervor: Santeria in Cuba," *The World & I* (Sept. 1993). This African-Cuban voodoo cult is closely associated with homosexuality. Ibid., p. 254.

68. Gary North, *Dominion and Common Grace: The Biblical Basis of Progress* (Tyler, Texas: Institute for Christian Economics, 1987), ch. 6.

69. *Ibid.*, ch. 8.

otherwise, individuals cannot be confident about receiving what the law says they deserve.[70] It is because the outcomes of trials are reasonably predictable that conflicts are settled before they come to trial.

Hayek's comments in this regard are extremely relevant. He announced a conclusion, one based on decades of study of both economic theory and legal history: "There is probably no single factor which has contributed more to the prosperity of the West than the relative certainty of the law which has prevailed here. This is not altered by the fact that complete certainty of the law is an ideal which we must try to approach but which we can never perfectly attain." He then went on to make this observation, one that relies on the concept of the thing not seen: "But the degree of the certainty of the law must be judged by the disputes which do not lead to litigation because the outcome is practically certain as soon as the legal position is examined. It is the cases that never come before the courts, not those that do, that are the measure of the certainty of the law."[71] In other words, self-government is basic to all government, but predictable law, predictable enforcement, and predictable sanctions must reinforce self-government if a society is to remain productive. The clogged courts of the United States in the final third of the twentieth century were testimonies to the breakdown of the certainty of civil law, as well as to the effects of tax-financed law schools that had produced over 700,000 lawyers.[72]

1. Justice in Flux

There is little doubt that the proliferation of lawyers in the United States in the latter years of the twentieth century was a sign of a major breakdown of its moral and legal order. In 1990, there were 18 million civil cases in the United States: one case per 10 adult Americans. The United States in 1990 had some 730,000 lawyers—70% of the world's total. In 1990, Japan had 11 lawyers per 100,000 in population; the United Kingdom, 82; Germany, 111; the United States, 281. Japan had

70. "Agree with thine adversary quickly, whiles thou art in the way with him; lest at any time the adversary deliver thee to the judge, and the judge deliver thee to the officer, and thou be cast into prison" (Matt. 5:25). Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 8.

71. F. A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), p. 208.

72. In the case of lawyers, Say's famous law holds true: production creates its own demand. The old story is illustrative: when only one lawyer lives in town, he has little work. When another lawyer arrives, they both have lots of work from then on.

115 scientists and engineers per lawyer; United Kingdom, 14.5; Germany, 9.1; United States, 4.8. Economic output per hour, 1973–90: Japan, 4.4%; United Kingdom, 3.3% Germany, 2.8%; United States, 2.3%.[73] The idea that the state can provide perfect justice is a costly myth.[74]

After 1870, throughout the West, a view of the state as an agency of compulsory salvation spread. It escalated rapidly after 1900, when Social Darwinism moved from its "dog-eat-dog" phase to its state-planned evolution phase.[75] P. J. Hill described the process: the decline of predictable law and the rise of the transfer society. "The idea of the transfer society is a society where property rights are up for grabs."So many people start grabbing.

> We've become a society in which the rules are in flux, thereby prodding people to spend a large amount of their time and resources trying to change the rules to their benefit. Our book[76] argues that in the beginning the Constitution was a set of rules for a few areas that pretty much encouraged the entrepreneurial type of person to go out and make better mousetraps, to create wealth. Somewhere around the 1870s the constitutional climate started changing dramatically, not by call amendment but by interpretation. The Constitution became interpreted in a more casual way. There was a rise in what we "reasonable regulations;" the Supreme Court said the state legislatures could pass any sort of regulations they wanted about economic affairs so long as they were "reasonable."
>
> That meant, of course, that people spent a lot of time trying to get regulations written to their advantage or to the disadvantage of their competitors, because there was no clear-cut standard. And today almost nothing in the economic arena is unconstitutional. . . .
>
> Today, much of the economic game is in the political arena. It is played by getting rules on your side, or making sure that somebody else doesn't get the rules on their side against you. The action is in Washington, D.C.
>
> It's interesting to look at the statistics of many large companies and see how much of their time goes into lobbying, where their business headquarters are, who the big players are, etc. It turns out that it's just as important to try to make sure that the rules favor you as it is to produce better products. Any society in which the rules are not clearly defined, whatever they are, is at risk. You need a society of stable, legitimate and just rules in order to have people productively engaged.

73. "Punitive Damages," *National Review* (Nov. 4, 1991).

74. Macklin Fleming, *The Price of Perfect Justice* (New York: Basic Books, 1974).

75. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, [1982] 2012), Appendix A.

76. Peter J. Hill and Terry Anderson, *The Birth of a Transfer Society* (Lanham, Maryland: University Press of America, 1989).

> I would put it this way: Theft is expensive. In a society where theft is prevalent people will put a lot of their efforts into protecting themselves—into locks and police guards, etc.
>
> Government can prevent theft, but can also be an agency of theft. If this is the case, then people will look to government to use its coercive arm to take from other citizens. In such a world of "legal theft" people will devote resources to protecting themselves and to getting government on their side.[77]

2. Open Entry vs. Open Access

Open entry to economic competitors on a free market is not the same thing as open access to political competitors in a civil government. The free market is not a covenantal institution possessing a lawful monopoly as an ordained representative of God. Civil government is. Allowing open access for office-seekers within a single governmental structure is not the same as allowing rival governmental structures within the same sphere of political authority. There has to be a hierarchy of authority, meaning a chain of command, in all three covenantal governments: church, family, and state. There is no such hierarchy in a free market. The consumer's decision is sovereign on a free market: to buy or not to buy. He is not comparably sovereign in a covenantal institution: to obey or not to obey apart from the threat of lawful sanctions. He is under external authority.

Civil government must enforce certain physical standards of measurement, if only for purposes of tax collection. The idea that a free market can provide profit-seeking courts as a complete substitute for the final earthly sovereignty of a civil court (assuming its widespread acceptance by family and church courts) is a myth of libertarianism. The essence of a free market system is that it does not and cannot make final declarations. Why? Because the essence of the free market is that anyone can step in at any time and announce a higher bid. The market, if it is truly free, cannot legally keep out those who offer higher bids.[78] Therefore, there can be no final, covenantally binding bid in a free market, since the market system allows no appeal to a

77. Hill, "The Transfer Society," pp. 1–2. See also Gary North, "The Politics of the Fair Share," *The Freeman* (Nov. 1993).

78. Biblically, if some offer is inherently immoral, price is irrelevant. Prostitution services aimed at married people can lawfully be suppressed by the state, but not in terms of price. No offer is allowed. There is no open entry, for there is no legal market. Any discussion of whether prostitution is lawful or unlawful between unmarried individuals must begin with the specific case law: "And the daughter of any priest, if she profane herself by playing the whore, she profaneth her father: she shall be burnt with fire" (Lev. 21:9).

superior, covenantally binding institution. If voluntary agreements are subsequently broken, there must be an agent economically outside of the free market and judicially above the free market who can sovereignly enforce the terms of the agreement. The free market is open-ended because it offers open entry; open entry is the heart of a free market. The resolution of disputes requires the presence of a representative covenantal agent who can dispense justice in God's name. Disputes are usually resolved before they reach this final declaration, but only because of the presence of this agency of final declaration. This final court of appeal must be able to appeal to a higher court: God's. This means that it must declare God's law.

L. Victim's Rights and Restitution

The fundamental principle of biblical civil jurisprudence is victim's rights. The state is to act as the agent of injured parties. If the injured party is unwilling to prosecute, the state is not to prosecute.[79] Does this mean that the state may not prosecute the seller who is discovered cheating by means of false weights and measures? If not, why not?

There are criminal cases in which there is no identifiable victim. The classic example is the case of a driver who exceeds the speed limit and does not injure anyone, but who thereby imposes risks on other drivers and pedestrians. The state in this case is allowed to impose fines on the convicted speeder. The money should be used to provide restitution for those who are injured by a hit-and-run driver who cannot subsequently be located or convicted.[80]

What about the seller who uses rigged scales? The state cannot prove when this practice began; it can only prove when the practice was discovered. It probably cannot identify who was defrauded. This means that many of the victims cannot sue for damages. Should the seller not suffer negative sanctions?

One possible way to resolve this dilemma is for the state to require the seller to provide discounts for a period of time to all of his past customers. The discount would be determined by the degree of scale-tampering: double restitution. If the scales were 10% off, then he must offer 20% discounts. To make sure he does not simply raise his retail prices before he starts offering the discounts, the state would fix his retail prices as of the day the infraction was discovered. Any customer who could show a receipt from the store would have access to the discounts.

79. North, *Authority and Dominion*, Appendix M.
80. *Ibid.*, chaps. 37:D, 41:C.

Because of modern packaging and mass production, not many stores would come under this threat. The butcher in the meat section of a supermarket would be one seller whose scales would be basic to the business. But, on the whole, modern technology transfers responsibility back to the companies that sell the packaged products to retail outlets. How, then, could the law be enforced on them? To require them to offer a discount to a retailer does not benefit the consumer; it provides a profit to the retailer. One way would be for those who have receipts for a product to be able to buy that firm's products for a period at a discount. The firm would then be forced to reimburse the retailer for the difference. This is a sales technique used by manufacturers in gaining market share in supermarkets: discount coupons. It could be imposed by the state as a penalty.

This would reward those consumers who save their receipts. If this procedure is too complicated for the victims to be fairly compensated, because of the nature of the product—a "small-ticket item"—then the firm could be required to offer discounts across the board to all future buyers of that specific product for a period of time. The firm would also be required to identify on the packaging of that product an admission of guilt, so that the discounts would not be regarded as an advertising strategy. Finally, the discount reimbursements to retailers would not be tax-deductible as a business expense to the seller.

M. Evangelical Antinomianism and Humanism's Myth of Neutrality

For a scale to operate, it must have fixed standards. If it is a balance scale like the one the famous lady of justice holds, it must have fixed weights in one of its two trays. There is no escape from the covenantal concept of judicial weights. This is the issue of ethical and judicial standards: point three of the biblical covenant model. Mosaic law stated that within the boundaries of Israel, honest (predictable) weights were mandatory. It did not matter whether the buyer was rich or poor, circumcised or not circumcised: the same weights had to be used by the seller. Israel was to become a sanctuary for strangers seeking justice. The symbol of this justice was the honest scale.

Which judicial standards were mandatory? The Bible is clear: God's revealed law. National Israel was not some neutral sanctuary in which rationally perceived natural law categories were enforced. That unique sanctuary was where biblical law was enforced. Those seeking sanctuary in Israel had to conform to biblical civil law. The metaphor-

ical weights in the tray of civil justice's scale were the Mosaic statutes and case laws.

1. Antinomianism

Because the modern Christian evangelical world is self-consciously and defiantly antinomian—"We're under grace, not law!"—Christians emphatically deny the New Covenant legitimacy of the concept of biblically revealed laws. They assume that men can develop universal, religiously non-specific moral standards in the same way that the world has developed universal physical weights and measurements. They prefer to ignore what the Bible reveals about covenant-breakers: those who hate God love death (Prov. 8:36b). The closer that covenant-breakers get to the doctrine of God, the more perverse they are in rejecting the testimony of the Bible. They interpret God, man, law, sanctions, and time differently from what the Bible specifies as the standard. They affirm rival covenantal standards.

A holy commonwealth would establish the law of God as the civil standard, but modern evangelical Christians hate the revealed law of God above every other system of law. First, they affirm as the binding standard the myth of neutrality: religiously neutral natural law. Second, they affirm their willingness to submit themselves to any system of law except biblical law. They announce: "A Christian can live peacefully under any legal or political system," with only one exception: biblical law. Modern Christians see themselves as perpetual strangers in the perpetual unholy commonwealths of covenant-breaking man. They deny that liberty can be attained under God's Bible-revealed law. God's revealed law, they insist, is the essence of tyranny. They seek liberty through religious neutrality: the rule of anti-Christian civil law. They seek, at most, "equal time for Jesus" in the satanic kingdoms of this world. They forget: the "equal time" doctrine is the lie that Satan's servants use while dwelling in holy commonwealths. When Satan's disciples gain civil power, they adopt a new rule: "As little time for Jesus as the tate can impose through force."

2. Geisler's Norm

Norman Geisler, a fundamentalist philosopher with a Ph.D. issued by a Roman Catholic university, and a devout follower of Thomas Aquinas,[81] insisted that all civil law must be religiously neutral. We

81. Aquinas, he said in 1988, "was the most brilliant, most comprehensive, and most systematic of all Christian thinkers and perhaps all thinkers of all time." Angela Elwell

must legislate morality, he said, but not religion. This means that civil morality can be religiously neutral. "The cry to return to our Christian roots is seriously misguided if it means that government should favor Christian teachings. . . . First, to establish such a Bible-based civil government would be a violation of the First Amendment. Even mandating the Ten Commandments would favor certain religions. . . . Furthermore, the reinstitution of the Old Testament legal system is contrary to New Testament teaching. Paul says clearly that Christians 'are not under the law, but under grace' (Rom. 6:14). . . . The Bible may be informative, but it is not normative for civil law."[82] The suggestion by those whom he calls "the biblionomists" [biblionomy: Bible law] that God's law still applies today is, in Geisler's words, a "chilling legalism."[83]

We need legal reform, he insisted. "What kind of laws should be used to accomplish this: Christian laws or Humanistic laws? Neither. Rather, they should simply be just laws. Laws should not be either Christian or anti-Christian; they should be merely fair ones."[84] There is supposedly a realm of neutral civil law in between God and humanism: the realm of "fairness." This means that Mosaic civil law was never fair. Those who believe that the Mosaic civil law was unfair refuse to say explicitly that this is what they believe. It sounds ethically rebellious against the unchanging God of the Bible, which it in fact is. Nevertheless, this rebellious outlook was universal within Protestantism in the twentieth century; it had been since at least the late seventeenth century.

This theory of neutral civil law denies Christ's words concerning the impossibility of neutrality: "No man can serve two masters: for either he will hate the one, and love the other; or else he will hold to the one, and despise the other. Ye cannot serve God and mammon" (Matt. 6:24).[85] "He that is not with me is against me; and he that gathereth not with me scattereth abroad" (Matt. 12:30). The neutralists insist that Christ's denial of neutrality does not apply to the civil covenant. Geisler wrote: "God ordained Divine Law for the church,

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Hunt, "Norm Geisler: The World Is His Classroom," *Fundamentalist Journal* (Sept. 1988), p. 21. This magazine was published by Rev. Jerry Falwell's Liberty University. Geisler was a professor there. The magazine ceased publication. Geisler resigned from the school in 1991.

82. Norman L. Geisler, "Should We Legislate Morality?" *ibid.* (July/Aug. 1988), p. 17.

83. *Idem.*

84. *Ibid.*, p. 64.

85. North, *Priorities and Dominion*, ch. 14.

but He gave Natural Law for civil government."[86] They insist, as Geisler insists, that true civil justice can be obtained only by removing all visible traces of Christianity from civil government. This is not humanism, he insists; this is merely neutral civil justice.

But there is no neutrality. There has never been a neutral kingdom of civil law, and there never will be. Facing the reality of this historical fact, this question inevitably arises: Which is worse, secular humanism or God's law? When push comes to shove, Geisler identified the greater evil: biblical law. "Thoughtful reflection reveals that this 'cure' of reconstructionism is worse than the disease of secularism."[87] Christians supposedly must content themselves with living as strangers in a strange land until Jesus personally returns in power. A question for premillennialists: Will Jesus enforce the Mosaic law or a system of neutral natural law during His premillennial kingdom? Premillennial defenders of natural law theory refuse to address this question in print. If they answer "Mosaic law," they have admitted that it is intrinsically morally superior to natural law. If they answer "natural law," they sever the God who declared the Mosaic law from that law. They prefer to remain silent.

The Christian antinomians' view of civil law has implications for their doctrine of eschatology. This is why virtually all amillennialists and premillennialists defend natural law theory and political pluralism, while attacking theonomy. They see themselves as God's people as losers in church history.[88] The most they hope for is a cultural stalemate.[89] They prefer to live meekly and impotently inside cultural ghettos rather than fight a cultural war in the name of Christ.[90] They do not believe they can win; therefore, they deny the basis of fighting in such a war, namely, a uniquely biblical judicial alternative to humanistic law. They deny the legitimacy of Bible-revealed judicial standards that would make possible an explicitly Christian social order during the era of the church. Their antinomian social ethics is a corollary to their pessimistic view of the church's future. God has granted them their desire: they live at the mercy of their enemies,

86. *Geisler*, p. 17.

87. Norman L. Geisler, "Human Life," in William Bentley Ball (ed.), *In Search of a National Morality* (Baker Book House [conservative Protestant] and Ignatius Press [conservative Roman Catholic], 1992), p. 115.

88. North, *Millennialism and Social Theory*, chaps. 7–9.

89. Gary North, *Backward, Christian Soldiers? An Action Manual for Christian Reconstruction* (Tyler, Texas: Institute for Christian Economics, [1984] 1988), ch. 11.

90. Gary North, "Ghetto Eschatologies," *Biblical Economics Today*, XIV (April/ May 1992).

who control the various social orders of our day. But the walls of their ghettos have holes in them: public schools, television, movies, rock music, the internet, and all the rest of humanism's lures.

Unlike the Israelites in Egypt who cried out to God for deliverance (Ex. 3:7), today's Christians prefer life in Egypt to life in the Promised Land. God cursed the exodus generation: death in the wilderness. But He did not allow them to return to Egyptian bondage. Today's Christians may grumble about certain peripheral aspects of their bondage, but they do not yet seek deliverance from their primary bonds, most notably their enthusiastic acceptance of religious and political pluralism, natural law theory, and the first-stage humanist promise of "equal time for the ethics of Jesus." They hate the very thought of their responsibility before God to establish covenanted national sanctuaries.

Conclusion

"Let me be weighed in an even balance, that God may know mine integrity" (Job 31:6). The imagery of the balance scale is basic to understanding each person's relation to God, either as a covenant-keeper or a covenant-breaker. Weights and measures are also representative biblically of the degree of civil justice available in a society. If those who own the measuring instruments of commerce tamper with them in order to defraud consumers, either specific groups of consumers—especially resident aliens—or consumers in general, they have sinned against God. They have stolen. If the civil government does not prosecute such thieves, then the society is corrupt. The continued existence of false weights and measures testifies against the whole society.

There are limits to our perception; there are limits to the accuracy of scales. This applies both to physical measurement and civil justice. Society cannot attain perfect justice. There must always be an appeal to the judge's intuition in judicial conflicts where contested public acts were not clearly inside or outside the law. This does not mean that there are limits to God's perception and God's justice. Thus, there will be a day of perfect reckoning. Over time, covenantally faithful individuals and institutions approach as a limit, but never reach, the perfect justice of that final judgment. This process brings God's positive sanctions to covenant-keeping individuals and institutions, making them more responsible by making them more powerful. Progressive sanctification, both personal and corporate, necessarily involves an increase in God's blessings and also personal responsibility.

The state is required by God to enforce His standards. The free market social order—a development that has its origins in the twin doctrines of personal responsibility and self-government—requires civil government as a legitimate court of appeal. But the bulk of law enforcement has to be individual: "Every man his own policeman." No other concept of law enforcement will suffice if a society is not to become a society of informants and secret police. Secondarily, law enforcement must be associative: market competition. Buyers and sellers determine the degree of acceptable fluctuation around agreed-upon standards. Only in the third level is law enforcement to become civil. Here, the standards are to be much more precise, much more rigid, and much more predictable. Representative cases—legal precedents—are to become guidelines for self-government and voluntary associative government.

20

INHERITANCE BY FIRE

> *Again, thou shalt say to the children of Israel, Whosoever he be of the children of Israel, or of the strangers that sojourn in Israel, that giveth any of his seed unto Molech; he shall surely be put to death: the people of the land shall stone him with stones. And I will set my face against that man, and will cut him off from among his people; because he hath given of his seed unto Molech, to defile my sanctuary, and to profane my holy name. And if the people of the land do any ways hide their eyes from the man, when he giveth of his seed unto Molech, and kill him not: Then I will set my face against that man, and against his family, and will cut him off, and all that go a whoring after him, to commit whoredom with Molech, from among their people.*
>
> LEVITICUS 20:2–5).

The theocentric principle governing this statute is God's jealousy against all rival gods. More specifically, God in the Old Covenant era held the office of "Father of the sons of Israel." The nation of Israel was His son (Ex. 4:23), adopted by His grace. So, God as Father demanded that the sons of Israel acknowledge this fact ritually by circumcising their sons.

A. Fatherhood and Sonship

The practice of sending children through a ritual fire was a denial of God's fatherhood and therefore also Israel's sonship. This two-fold ritual denial called forth the threat of disinheritance by God. The required means of this disinheritance was public execution by stoning, a penalty that outrages modern Christians, who regard it (and, by implication, the God who required it) as barbaric. The penalty was not execution by fire—or, for that matter, by drinking hemlock.

Godly inheritance in history is always by fire. This fire is covenantal:

placing God's people in trials and tribulations—historical sanctions—in order to purge them of their sins (Isa. 1:25–26). The imagery is that of metal-working (Isa. 1:22a). One pagan version of this imagery of metal-working was alchemy.[1] Another was the practice of passing children through a fire.

The sanction of execution makes it clear that this was a civil law. As a civil law, it applied to all those residing within the jurisdiction of the state. It applied equally to covenanted Israelites and "strangers that sojourn in Israel" (v. 2). If the civil magistrate refused to prosecute, or if the civil judges refused to convict, or if the capital sanction was not imposed, God threatened the practitioner with excommunication: cutting off (v. 5). Since this would be God's act rather than the priests' act, the implication is that God would intervene directly to kill him.

Here is another seed law, or so the language indicates: "any of his seed." This seed law applied to a parent's dedication of a son or daughter to a specific foreign god, Molech.[2] First, the seed laws were part of the laws governing inheritance and disinheritance. Second, as a seed law, it was part of the laws governing the land. These land laws were necessary because of the presence of God's temple within the land. The temple had to be protected from defilement. Third, this statute was part of the laws prohibiting blasphemy: prohibiting the profanation of God's holy name. The judicial boundary around God's name was as important as the physical boundaries around the temple and its environs. This boundary extends into the New Covenant, unlike the land-based boundaries of the Mosaic Covenant.

B. The Nature of the Prohibited Rite

Molech was the god of Ammon, the incest-conceived, bastard cousin of Israel (Gen. 19:38). "Then did Solomon build an high place for Chemosh, the abomination of Moab, in the hill that is before Jerusalem, and for Molech, the abomination of the children of Ammon" (I Kings 11:7). His name came from the Hebrew word for king, Melek. This deity was also known as Milcom and Milcham. He was a fire god, essentially the same as the Moabites' deity, Chemosh (I Kings 11:5; cf. v. 7).[3] Stephen referred to Molech as a god worshipped by the Israelites in the wilderness: "Then God turned, and gave them up to worship the host of heaven; as it is written in the book of the

1. Mircea Eliade, *The Forge and the Crucible: The Origins and Structures of Alchemy* (New York: Harper Torchbooks, [1956] 1971).

prophets, O ye house of Israel, have ye offered to me slain beasts and sacrifices by the space of forty years in the wilderness? Yea, ye took up the tabernacle of Moloch, and the star of your god Remphan, figures which ye made to worship them: and I will carry you away beyond Babylon" (Acts 7:42–43). Molech was a major rival god in the history of Israel.

Molech required a specific form of dedication: passing children through a fire. "And thou shalt not let any of thy seed pass through the fire to Molech, neither shalt thou profane the name of thy God: I am the LORD" (Lev. 18:21). Israel ignored this law, among many others, and God cited this in His covenant lawsuit against Jerusalem. Jerusalem would pass through the Chaldeans' fire: fire for fire (Jer. 32:29, 35). This indicates that God's negative sanctions against this crime were not limited to the family that practiced it. As with all ritual abominations, if the civil authorities allowed the practice to continue unopposed, God would bring His corporate sanctions against the nation as a whole. But it was this ritual abomination that was identified by God through Jeremiah as the representative evil in the land. Their crimes were comprehensive: "Because of all the evil of the children of Israel and of the children of Judah, which they have done to provoke me to anger, they, their kings, their princes, their priests, and their prophets, and the men of Judah, and the inhabitants of Jerusalem" (Jer. 32:32). Their worship of Molech was representative: "And they built the high places of Baal, which are in the valley of the son of Hinnom, to cause their sons and their daughters to pass through the fire unto Molech; which I commanded them not, neither came it into my mind, that they should do this abomination, to cause Judah to sin" (Jer. 32:35).

Molech required the shedding of innocent blood. The Israelites worshipped Molech as he required: "Yea, they sacrificed their sons and their daughters unto devils, And shed innocent blood, even the blood of their sons and of their daughters, whom they sacrificed unto the idols of Canaan: and the land was polluted with blood" (Ps. 106:37–38). "Moreover thou hast taken thy sons and thy daughters, whom thou hast borne unto me, and these hast thou sacrificed unto them to be devoured. Is this of thy whoredoms a small matter, That thou hast slain my children, and delivered them to cause them to pass through the fire for them?" (Ezek.16:20–21). "That they have committed adultery, and blood is in their hands, and with their idols have they committed adultery, and have also caused their sons, whom

they bare unto me, to pass for them through the fire, to devour them" (Ezek. 23:37). "Moreover he [King Ahaz] burnt incense in the valley of the son of Hinnom, and burnt his children in the fire, after the abominations of the heathen whom the LORD had cast out before the children of Israel" (II Chron. 28:3). This was not an occasional practice in Israel; it became a way of life through death.

This law raises at least five questions. First, exactly what did "giving one's seed to Molech" involve? Was it a formal dedication service comparable to circumcision? Second, why did the ritual offering of a child defile the sanctuary of God? Why was this a uniquely profane act? Third, why was this forbidden to resident aliens? The specified negative sanction, death by stoning, if ignored by the judges, would be followed by God's intervention against that family and all those who joined with that family. The law here says nothing about a threat to the Israelite community at large. Why, then, should resident aliens be prohibited from performing such a rite? Fourth, was this law a law governing false worship in general, or was it confined to Molech worship only? Fifth, does it still apply in New Covenant times? Was it a cross-boundary law? Let us consider each of these questions in greater detail, one by one.

I. Rites of Dedication

There is no question that some sort of cultic rite was involved in this crime. It was a formal, covenantal transgression of the first commandment: "Thou shalt have no other gods before me" (Ex. 20:3). The legal question is: Did this act become a crime only when committed outside of a household? No; it was a crime for an Israelite no matter where it took place. False worship within an Israelite household was a capital crime in Mosaic Israel.

> If thy brother, the son of thy mother, or thy son, or thy daughter, or the wife of thy bosom, or thy friend, which is as thine own soul, entice thee secretly, saying, Let us go and serve other gods, which thou hast not known, thou, nor thy fathers; Namely, of the gods of the people which are round about you, nigh unto thee, or far off from thee, from the one end of the earth even unto the other end of the earth; Thou shalt not consent unto him, nor hearken unto him; neither shall thine eye pity him, neither shalt thou spare, neither shalt thou conceal him: But thou shalt surely kill him; thine hand shall be first upon him to put him to death, and afterwards the hand of all the people. And thou shalt stone him with stones, that he die; because he hath sought to thrust thee away from the LORD thy God, which brought thee out of the land of Egypt, from the house of bondage. And

> all Israel shall hear, and fear, and shall do no more any such wickedness as this is among you (Deut. 13:6–11).

1. Proseletyzing

This law against intra-family proselytizing did not apply to resident aliens, who were assumed by the law to worship in private the gods of their families or their nations. Proselytizing was not a crime within a household that had not formally covenanted to Jehovah. This anti-proselyting law applied only to Israel's citizens and those eligible to become citizens.[4] It was understood that anyone who was not formally covenanted through circumcision was probably not a worshipper of Jehovah. The resident alien was not allowed to seek converts to his god in Israel, but he was also not expected to enforce the worship of Jehovah within his own household.

A Israelite father might decide to allow such idolatrous proselytizing, but the state was required by God to step in and prosecute. The father's authority in his household had limits; it was not absolute. The family member who was subjected to the lure of false worship by another family member deserved protection. The terms of God's covenant had to be enforced. If they were not, the state stepped in to protect the victim or victims. The law governing false worship within an Israelite family reveals an important principle of the Mosaic law: the state was superior to the head of an Israelite household when it came to protecting the members of his family from the lure of false worship. In matters of correct worship, the citizen of Israel was under the protection of the State in Israel. The resident alien was not. What went on ritually inside the home of an Israelite was a matter of civil law. This was not true of the resident alien's home, unless the ritual threatened the life of the child. In short, an Israelite's home may have been his castle; it was not his private sanctuary.

2. False Worship Generally

The law governing family worship was a defining law: it represented all false worship by those formally covenanted to God. This can be seen in the application of another law governing false worship:

> If there be found among you, within any of thy gates which the LORD thy God giveth thee, man or woman, that hath wrought wickedness in the sight of the LORD thy God, in transgressing his covenant, And hath gone and

4. This includes families that would not be eligible until the tenth generation (Deut. 23:2–3).

> served other gods, and worshipped them, either the sun, or moon, or any of the host of heaven, which I have not commanded; And it be told thee, and thou hast heard of it, and enquired diligently, and, behold, it be true, and the thing certain, that such abomination is wrought in Israel: Then shalt thou bring forth that man or that woman, which have committed that wicked thing, unto thy gates, even that man or that woman, and shalt stone them with stones, till they die. At the mouth of two witnesses, or three witnesses, shall he that is worthy of death be put to death; but at the mouth of one witness he shall not be put to death. The hands of the witnesses shall be first upon him to put him to death, and afterward the hands of all the people. So thou shalt put the evil away from among you (Deut. 17:2–7).

The phrase, "hath gone and served other gods, and worshipped them, either the sun, or moon, or any of the host of heaven," indicates that the transgressor was an Israelite. The stranger within the gate was assumed to be a worshipper of false gods within his own household. He did not go to serve them; he came serving them. What was explicitly forbidden was the breaking of God's covenant through false worship by an Israelite.

3. The Theology of Circumcision

In all worship, man must make a sacrifice. In biblical worship, the sacrifice is total: the whole of one's life. "And thou shalt love the LORD thy God with all thine heart, and with all thy soul, and with all thy might" (Deut. 6:5).[5] This comprehensive sacrifice is personal, not institutional. Ritual sacrifices are limited by God's law.[6] The demand for total sacrifice is based on fear. Men must fear this God: "And now, Israel, what doth the LORD thy God require of thee, but to fear the LORD thy God, to walk in all his ways, and to love him, and to serve the LORD thy God with all thy heart and with all thy soul" (Deut. 10:12). Men must also obey Him: "Therefore thou shalt love the LORD thy God, and keep his charge, and his statutes, and his judgments, and his commandments, alway" (Deut. 11:1).

How is the mandatory fear of God connected to this law? Because obedience brings descendants: "In that I command thee this day to love

5. Any commitment other than the commitment to God is the demand of a false religion. This is why Communism was a messianic false religion. It was a school of darkness, to cite the title of ex-Communist Bella V. Dodd's 1954 autobiography. It demanded the whole of their lives, to cite the title of ex-Communist Benjamin Gitlow's 1948 autobiography. It was ultimately the God that failed, to cite the title of Richard Crossman's 1949 collection of autobiographies by ex-Communists.

6. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Five Point Press, [1990] 2012), ch. 56. See Exodus 25:3–8; 36:5–7.

the LORD thy God, to walk in his ways, and to keep his commandments and his statutes and his judgments, that thou mayest live and multiply: and the LORD thy God shall bless thee in the land whither thou goest to possess it" (Deut. 30:16). The covenantal blessings of God extend to the thousandth generation: "Know therefore that the LORD thy God, he is God, the faithful God, which keepeth covenant and mercy with them that love him and keep his commandments to a thousand generations" (Deut. 7:9). Here was the spiritual meaning of covenantal rite of circumcision: "And the LORD thy God will circumcise thine heart, and the heart of thy seed, to love the LORD thy God with all thine heart, and with all thy soul, that thou mayest live" (Deut. 30:6).

As a sign of the parents' obedience to God, they marred their male heirs physically. The mark of circumcision was placed on the male heir's organ of reproduction. It was a symbol of covenantal death: anti-generation. Circumcision announced ritually that there can be no legitimate covenantal hope in the future based on mere physical generation.[7] What is needed is spiritual regeneration: the circumcision of the heart. The organ of generation was physically cut as a testimony to the need for the heart to be cut by God Himself:

> Behold, the days come, saith the LORD, that I will make a new covenant with the house of Israel, and with the house of Judah: Not according to the covenant that I made with their fathers in the day that I took them by the hand to bring them out of the land of Egypt; which my covenant they brake, although I was an husband unto them, saith the LORD: But this shall be the covenant that I will make with the house of Israel; After those days, saith the LORD, I will put my law in their inward parts, and write it in their hearts; and will be their God, and they shall be my people (Jer. 31:31–33).

Just as God had written the Ten Commandments on tablets of stone, so would He write His law in the hearts of His people. This

7. The Greeks and Romans placed their personal hope for their future beyond death in the maintenance of family rituals down through time. The eldest son was the priest of these family rituals. He had to administer them properly in order to sustain peace for his departed ancestors. The family was therefore central to religious life in the classical world. Private family law existed prior to the city and its laws. This is why fathers had the legal authority to kill their sons. See Numa Fustel de Coulanges, *The Ancient City: A Study on the Religion, Laws, and Institutions of Greece and Rome* (Garden City, New York: Doubleday Anchor, [1864] 1955), Book I, chaps. IV, VIII. Fustel wrote: "For when these ancient generations began to picture a future life to themselves, they had not dreamed of rewards and punishments; they imagined that the happiness of the dead depended not upon the life led in this state of existence, but upon the way in which their descendants treated them. Every father, therefore, expected of his posterity that series of funeral repasts which was to assure to his manes [surviving spirit] repose and happiness" (I:3; p. 49).

is the meaning of the circumcision of the heart. Such circumcision is intended to produce obedience.

4. The Theology of Testing by Fire

Molech's required ritual was a perverse imitation of Jehovah's. Instead of physically marring the organ of generation as a symbol of physical death but also covenantal life, the child was actually passed through a literal fire. The child who survived this ordeal was therefore assumed to be blessed covenantally by Molech. He had passed the deadly initiation rite by means of supernatural intervention. This ritual was covenantal, but rather than being ethical in its focus, it was magical. Its mark of supernatural power was the survival of the child.[8] If the child died, the parents had to regard this as the god's required sacrifice. Thus, the idea of covenantal inheritance in Molech worship was magical rather than ethical. Molech religion was the archetype of power religion.

In both dominion religion and power religion, the seed is central to the rites of initiation. The seed represents the future. The seed is the means of expansion. If there is no growth, there can be no expansion. If the seed does not grow, or does not reproduce itself, the covenantal future is cut off. In biblical religion, children are seen as children of God ethically. He who obeys God's law is the true son of God. In power religion, children are seen as children of god ritually. He who observes the details of the rites is the true son of the god. Such a view is antithetical to biblical religion:

> Wherewith shall I come before the LORD, and bow myself before the high God? shall I come before him with burnt offerings, with calves of a year old? Will the LORD be pleased with thousands of rams, or with ten thousands of rivers of oil? shall I give my firstborn for my transgression, the fruit of my body for the sin of my soul? He hath shewed thee, O man, what is good; and what doth the LORD require of thee, but to do justly, and to love mercy, and to walk humbly with thy God? (Micah 6:6–8)

To remove the child from the covenantal authority of Molech-worshiping parents, the state was required by God to execute the parents. A child who survived this rite of fire would become an orphan

8. In modern times, the peculiar practice of fire-walking has again become a popular initiatory rite, this time among business executives. Certain management training programs end with the participants' walking over hot coals as a sign of their confidence in themselves and their new-found ability to manage other people through techniques of power. The fire-walkers never attempt to walk on sheet metal placed on top of the hot coals; metal is a very efficient heat transmitter.

when the mandatory civil sanction attached to this law was applied by the civil magistrate. God's law made it clear: better to become an orphan and live under the authority of covenantally faithful foster parents than to live under the authority of Molech-worshipping parents. The family's inheritance was immediately transferred to the child or children (if there were older siblings) for this sin by the parents. This transfer was a positive side-effect of this statute; it was not a specified goal of the law. This means that the covenantal authority of the parents was never absolute in the Mosaic economy. The parents were to be disinherited by execution because of their false theology of inheritance, ritually manifested in strange fire. The Israelite family was not autonomous. The father's authority was bounded.

II. Strange Fire: Defiling the Sanctuary

A murder in Israel defiled the land, which is why God required certain rites of purification in cases where the murderer could not be located (Deut. 21:1–9). But a murder committed outside God's sanctuary did not defile the sanctuary. The question arises: Why did this ritual offering of a child defile God's sanctuary? The act took place away from the sanctuary. Why was this a uniquely profane act?

There are at least two reasons. First, because this form of ritual murder, or potential ritual murder, involved the use of a fiery altar, meaning a rival to God's altar. Second, because it was an assault on the Seed, meaning the prophesied future Messiah.

1. The Altar

From Adam's transgression onward, sin threatened mankind's survival. The very survival of Adam in history testified to God's grace to Adam, and it also testified to a future sacrifice that would atone for what Adam had done. Without such lawful sacrifice, there is only death for the transgressor.

The altar is an instrument of sacrifice. Men bring their sacrifices to the altar. It need not be an animal sacrifice. Jesus warned: "Therefore if thou bring thy gift to the altar, and there rememberest that thy brother hath ought against thee; Leave there thy gift before the altar, and go thy way; first be reconciled to thy brother, and then come and offer thy gift" (Matt. 5:23–24).[9]

The worshipper offers something to God that he does not expect

9. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 7.

to get back. This act of forfeiture is a testimony that God is sovereign. The worshipper may expect some sort of return in the future, but not the actual item he brings to the altar. He acts in faith: the God of the altar is sovereign and will reward him, in time and/or eternity, or will not bring negative sanctions against him.

On God's Old Covenant altars was fire. This fire was a consuming fire. It testified to God's sanctions. A slain animal sacrificed to God on that fire became a substitute for the giver. The man who offered this sacrifice acknowledged that he deserved such fire. God's fire is ethical: it is deserved because of the individual's transgression of covenant law. If there is no substitutionary sacrifice, the transgressing individual faces God's fire. To survive, the individual must bring a sacrifice.

The fire on the temple's altar was to be perpetual, i.e., as perpetual as the Mosaic Covenant itself: "The fire shall ever be burning upon the altar; it shall never go out" (Lev. 6:13). Day and night, God's flame was to burn. Day and night, God offers men a way to burn away their sins ritually. The perpetual nature of the flame pointed to the permanence of both God's grace and His final negative sanctions. Those who refuse to submit to God in history become in death the sentient sacrifices on God's perpetual altar: "For every one shall be salted with fire, and every sacrifice shall be salted with salt" (Mark 9:49). The judicial alternatives are clear: either sacrifice lawfully in history or be lawfully sacrificed in eternity. Put more bluntly: roast or be roasted. When Israel rebelled for the last time, God brought the Roman army as His agent of judgment, which set fire to the temple.[10] This ended the Old Covenant order forever. (This is why Judaism, which was developed by the Pharisees after the destruction of the temple,[11] is not and never was the religion of the Old Covenant.[12])

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10. David Chilton, *The Great Tribulation* (Ft. Worth, Texas: Dominion Press, 1987).

11. Jacob Z. Lauterbach, "The Sadducees and Pharisees" (1913); reprinted in Lauterbach, *Rabbinic Essays* (Cincinnati, Ohio: Hebrew Union College Press, 1951); J. H. Hertz, "Foreword," *The Babylonian Talmud*, Seder Nezikin (London: Soncino Press, 1935), p. xiv. The standard Jewish work on the Pharisees is Rabbi Louis Finkelstein's study, *The Pharisees: The Sociological Background of Their Faith*, 2 vols., 3rd ed. (Philadelphia: Jewish Publication Society, 1962).

12. This was openly acknowledged by Jewish scholar Jacob Neusner, the author of 43 volumes of commentaries on the Mishnah, the Pharisees' post-temple text regarded as sacred by Orthodox Jews. Neusner wrote: "While the world at large treats Judaism as 'the religion of the Old Testament,' the fact is otherwise. Judaism inherits and makes the Hebrew Scriptures its own, just as does Christianity. But just as Christianity rereads the entire heritage of ancient Israel in light of 'the resurrection of Jesus Christ,' so Judaism understands the Hebrew Scriptures as only one part, the written one, of 'the one

The law warned the priests: "They shall be holy unto their God, and not profane the name of their God: for the offerings of the LORD made by fire, and the bread of their God, they do offer: therefore they shall be holy" (Lev. 21:6). When the sons of Aaron deviated from the prescribed ritual, God set them on fire (Lev. 9:24–10:3). There could be no deviation from the required procedure without God's express permission. The reason for this was not magical. It was not the procedure that was sacrosanct. Holiness was sacrosanct: God's and the priest's. God had placed a series of boundaries around His presence in the holy of holies because to be in His presence required that the sacrifice-offerer be holy. To offer sacrifices in any way different from what God required was an assertion of man's autonomy. It was a public denial of both the absolute sovereignty of God and the absolute holiness of God.

The fire of the altar was a means of both purification and destruction. Fire was representative of the final judgment. A living being was not allowed on the altar. The sacrificial animals had to be slain away from the altar before they were placed on the altar. Biblical worship is always representative. Redeemed man does not die for his own sins; someone else must die for his sins. Biblical worship in the Old Covenant era made it clear that the sacrifice is representative: the altar's fire consumed that which was already dead. This is the spiritual condition of fallen man as he approaches the altar: living death. To place a living thing on the altar is an illegitimate sacrifice. It testifies to a different condition of man. Only one living sacrifice ever possessed true life: Jesus Christ. His perfect sacrifice was legitimate for the symbolic altar of the cross, for only He did not approach the altar as a spiritually dead man.

The offer of one's child to any god was an act of moral rebellion.

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whole Torah of Moses, our rabbi.' Ancient Israel no more testified to the oral Torah, now written down in the Mishnah and later rabbinic writings, than it did to Jesus as the Christ. In both cases, religious circles within Israel of later antiquity reread the entire past in light of their own conscience and convictions. Accordingly, while the framers of Judaism as we know it received as divinely revealed ancient Israel's literary heritage, they picked and chose as they wished whatever would serve the purposes of the larger system they undertook to build. Since the Judaism at hand first reached literary expression in the Mishnah, a document in which Scripture plays a subordinate role, the founders of that Judaism clearly made no pretense at tying up to scriptural proof texts or at expressing in the form of scriptural commentary the main ideas they wished to set out. Accordingly, Judaism only asymmetrically rests upon the foundations of the Hebrew Scriptures, and Judaism is not alone or mainly 'the religion of the Old Testament.'" Jacob Neusner, *Judaism and Scripture: The Evidence of Leviticus Rabbah* (Chicago: University of Chicago Press, 1986), p. xi.

To make a child pass through a literal fire as a rite of initiation was the non-priest's equivalent of offering strange fire: an unauthorized sacrifice. Thus, it was a profane act.[13] It violated God's judicial boundary around His name. It violated the exclusiveness of God's sanctuary by establishing a rival sanctuary within the land. This was the worst possible boundary violation for any non-priest under the Mosaic Covenant. (The worst for the priest was offering strange fire on the altar.) God threatened to intervene directly with His fire in response. The non-priest had no access to the temple's altar; thus, he offered his sacrifices with strange fire away from the temple. The civil penalty was death by stoning.

2. Cutting Off the Future

The second reason why this crime was so perverse an act was that it placed the future of the seed in the hands of demonic forces. The child would either die in the flames or be initiated into the service of a false god. This was a perverse imitation of the biblical covenantal process of inheritance/disinheritance: point five of the biblical covenant model.[14] Those who would inherit were those who had been protected from the flames by occult forces: a protective boundary.

If the death penalty had been confined to Israelites, this seed law could be subsumed under the laws governing the coming of the promised seed. But this law prohibited resident aliens from participating in Molech's initiatory rites. Why? First, because of the degree of violation of God's sanctuary. Second, because human life was protected in Israel. Third, because of the possibility of adoption. Through adoption, a resident alien could become part of the covenant line, as both Rahab and Ruth did (Matt. 1:5). This offer to the resident alien of full participation through adoption into the three institutional covenants—ecclesiastical, familial, and civil—was unique to Israel in the ancient Near East. This was a sign of God's grace. The lives of alien children had to be preserved for the sake of the opportunity of conversion and adoption.

Residents from Ammon and Moab had the most rigorous restriction placed on this participation: 10 generations (Deut. 23:3). Technically, this was probably because of their origins: born of incestuous

13. Acts are profane: sacred boundary violations. Things or places can be profaned by profane acts; they are never inherently profane. Only sacramental places can be profaned. Common places cannot be profaned. See chapter 6.

14. Ray R. Sutton, *That You May Prosper: Dominion By Covenant* (Tyler, Texas: Institute for Christian Economics, [1987] 1992), ch. 5.

unions between Lot and his daughters (Gen. 19:37–38). The bastard could not enter the congregation (i.e., attain citizenship) until the tenth generation (Deut. 23:2). But another reason for the prohibition may have been that Molech and Chemosh were the gods, respectively, of Ammon and Moab. This fire god was the great rival to God and His altar. The resident alien from Ammon or Moab was more unwelcome in Israel than any other nationality, and the mark of this alienation was the mandatory waiting period of nine generations. To break covenant with Molech and Chemosh took nine consecutive generations, plus a formal break, presumably no younger than age 20 (Ex. 30:14), of the tenth-generation heir.

III. Resident Aliens and Biblical Pluralism

This law specified that a stranger in the land was to be executed by the citizens of Israel if he was caught performing a specific rite of Molech worship: giving his seed to Molech. The reason why strangers were under this law is stated clearly in the statute: such an act defiles God's sanctuary and profanes His holy name. No one inside the boundaries of Israel was allowed to do this. But God regarded household false worship by resident aliens as peripheral to the national covenant. Only when the stranger ritually threatened the survival of his own child did he defile God's sanctuary. The judicial foundation of the rights of resident aliens—their immunity from state sanctions—was the possibility that they or their children might covenant with God. Justice in Israel was a major form of evangelism, both inside and outside the land (Deut. 4:4–8).[15] Allowing aliens to see God's law in action was a way to persuade them of the righteousness of God. Israel's system of civil justice was unique in the ancient world: a single legal order for all residents.[16]

Today, we call such a judicial system pluralistic, but biblical pluralism has limits. All pluralism has limits. Pluralism can never be unbounded; someone's religious principles or practices will always be threatened by one or another aspect of any society's legal order. The resident of Israel could not lawfully claim religious freedom as authorization for exposing his children to the risk of death, even though his god required such a rite. The ideal of biblical pluralism extended to the resident alien the right to worship family gods in peace within

15. Gary North, *Inheritance and Dominion: An Economic Commentary on Deuteronomy*, 2nd ed (Dallas, Georgia: Point Five Press, [1999] 2012), ch. 8.

16. North, *Authority and Dominion*, ch. 14.

the boundaries of their homes, but it did not authorize heads of households the right of literally sacrificing their children. The seal of a household's religion could not lawfully be death or the risk of death. The household in Israel was a limited sanctuary: a place set aside, protected judicially from outside interference from the state. There was a boundary on state power. But passing a child through Molech's fire was regarded by God as strange fire: a transgression of His sanctuary's monopoly. There was no right—no legal immunity from the sanctions of civil government—for anyone to light a strange fire in Israel: a ritual fire that literally invoked death as a means of sanctioning a covenant.

IV. The Limits of Biblical Pluralism

The state was required to intervene and execute any Israelite who could be proven to have attempted to lure one of his family members into a rival covenant (Deut. 13:6–11). "And thou shalt stone him with stones, that he die; because he hath sought to thrust thee away from the LORD thy God, which brought thee out of the land of Egypt, from the house of bondage" (v. 10). The general crime was false worship, but the specific reason given was God's deliverance of the Israelites out of Egypt. This clearly had nothing to do with resident aliens. False household worship was not generally a crime for resident aliens, who were not expected to adopt true religion.

Specifically, false worship was a crime if they participated in a ritual offering of a child to Molech. Even if the child survived the ordeal, the parent or parents were to be executed. The crime was not murder or attempted murder; it was the profanation of God's boundary: the altar of sacrifice. The attempted sacrifice of a child on such an altar was a capital crime. It was this crime that God specified through Jeremiah as the crime of Israel and Judah, leading to their captivity in Babylon. This was the abomination that God would not tolerate when His covenant people did tolerate it (Jer. 32:35).

1. Negative Sanctions

The modern Christian defender of religious pluralism would recommend civil sanctions against such a practice on some legal basis other than the profanation of God's sanctuary. If the child died, the law of murder can be invoked. If the child survived, the law of attempted murder can be invoked. But in no Western society is the

penalty for attempted murder execution.[17] This creates a problem for the Christian pluralist. If he defends the imposition of a civil sanction in cases where the child survives, he cannot do so explicitly on the basis of biblical law. In any case, he cannot do so explicitly on the basis of this law.

A defender of biblical law could argue that this law is annulled under the New Covenant because the seed laws have been annulled. Or he could argue that the unique status of God's temple sanctuary ended when the land lost its status as judicially holy at the fall of Jerusalem in A.D. 70. But there remains this problem: the holiness of God's name. The justification for this law was not merely that this Molech initiation rite defiled God's sanctuary; it also profaned His holy name (Lev. 20:3). Nothing in the New Covenant has removed the boundary of holiness from God's name. The question is: How serious is God in the New Covenant about defending His name? This leads to another question: Is the defense of God's name legitimately part of a Christian civil government's code? Finally, what would be a New Testament justification for God's lack of interest in defending His name?

2. The First Table of the Law

There are Christian pluralists who deny that the so-called First Table of the Law is to be enforced by the civil government in the New Covenant era.[18] If taken literally, this assertion would include the law to honor parents: the fifth commandment (part of the so-called First Table). Children could not be compelled by the civil government to care for their aged and infirm parents. This conclusion has been taken seriously by defenders of the modern welfare state. In the United States, compulsory, tax-financed Social Security and Medicare payments have replaced children as the sources of mandatory support of the elderly. Children in my era have welcomed this economic and judicial release from personal responsibility, despite the ever-increasing tax burden involved.[19] But I have never seen any Christian social

17. As a high-handed sin, it should be a capital crime, if the prosecution can prove that the accused did attempt it. But because the victim is still alive, he has the right to declare mercy or demand a lesser penalty, such as the payment of a fine. The reason why murder is always a capital crime is that the victim is not alive, and hence cannot extend mercy to the criminal. The state must impose the maximum penalty. North, *Authority and Dominion*, Appendix M:L:1.

18. For a refutation, see Greg L. Bahnsen, *No Other Standard: Theonomy and Its Critics* (Tyler, Texas: Institute for Christian Economics, 1991), pp. 202–5.

19. North, *Authority and Dominion*, ch. 25.

theorist proclaim the legitimacy of compulsory Social Security as a complete substitute for the responsibility of children. I conclude that what Christian pluralists probably mean by their denial of civil sanctions to enforce the First Table is this: the first four commandments of the Decalogue are no longer legitimately enforceable by the state. The term "First Table of the Law" is shorthand for "the first four commandments" (or first three for Lutherans).

For a Christian to argue this position—the negation of civil sanctions for commandments one through four—he must appeal to natural law and natural revelation, meaning revelation neither secured by nor interpreted by God's Bible-revealed law. Bahnsen challenged this interpretation of natural revelation:

> . . . natural revelation includes the moral obligations contained in the first table of the decalogue (our duty toward God), just as much as it contains those of the second table. Paul taught that natural revelation condemned the pagan world for failing to glorify God properly and for idolatrously worshiping and serving the creature instead (Rom. 1:21, 23, 25). . . . The fact is that all of the Mosaic laws (in their moral demands) are reflected in general revelation; to put it another way, the moral obligations communicated through both means of divine communication are identical (Rom. 1:18–21, 25, 32; 2:14–15; 3:9, 19–20, 23). Scripture never suggests that God has two sets of ethical standards or two moral codes, the one (for Gentiles) being an abridgement of the other (for Jews). Rather, He has one set of commandments which are communicated to men in two ways: through Scripture and through nature (Ps. 19; cf. vv. 2–3 with 8–9).[20]

The two forms of God's revelation, special (written) and general (natural), are not in conflict with each other. When the Bible specifies a penalty, this is not in conflict with natural revelation. Written revelation makes clear today what was originally clear in natural revelation. This lack of clarity in natural revelation today is the product of two factors: the noetic effects of man's rebellion and the physical effects of God's curse on nature. Written revelation is superior to natural revelation because it is clearer and more precise. The biblical principle of textual interpretation is this: the clear passage is to interpret the less clear. This is also the biblical principle of judicial interpretation. Written revelation is authoritative.

The theonomist insists that the Bible's revelation is authoritative over general revelation. The Christian pluralist insists that general revelation, as interpreted by the covenant-breaker, is authoritative

20. Bahnsen, *No Other Standard*, p. 206.

over special revelation. There is no way to reconcile these rival principles of interpretation. Unlike general and special revelation, these two hermeneutic approaches are mutually exclusive.

3. Christian Pluralism's Hermeneutic

Hermeneutics is an inescapable concept. Everyone must have a principle of interpretation. The Christian pluralist insists, implicitly if not explicitly, that whatever is more generally believed or understood possesses authority over that which is less universally believed or understood. That is to say, the Christian pluralist is a defender of the methodology of democracy in hermeneutics as well as politics. The Christian pluralist, siding with covenant-breakers, who in my era vastly outnumber covenant-keepers, refuses to acknowledge that natural revelation conveys the moral principles of the first five commandments of the Decalogue. He argues instead that these commandments are unclear in, or even absent from, natural revelation. Thus, he concludes, special revelation is less universal than general revelation, and hence subordinate and secondary to general revelation. The Christian pluralist regards the Bible's judicial principles of interpretation as subordinate to the judicial interpretations of covenant-breaking natural men. For purposes of public relations within the Christian community, he does not state his position in this way, but this is his position nonetheless.

The Christian pluralist is inescapably an ethical dualist. He believes in the existence of two sets of valid moral standards, as well as two sets of valid civil laws. He says that the biblical set of laws was valid only for the nation of Israel during the Mosaic economy, while natural law is valid for every other society and every other time period. He always favors the adoption of the covenant-breaker's interpretation of the supposedly religiously neutral, "natural" civil law-order. Whatever the covenant-breaker claims to have intuited from natural revelation is what the Christian pluralist says the content of natural revelation must be: natural revelation as seen with covenant-breaking eyes. The pluralist refuses to allow Spirit-renewed Christians to use the Bible to modify the judicial content of natural revelation as understood by pagans; only other pagans are allowed to make these modifications. Aristotle is allowed to challenge Plato's communism, but Moses is not.[21] Aristotle's word carries weight for the Christian

21. I have noticed that whenever scholars discuss the communism of the Socratic dialogues, Plato gets the blame. Western scholars prefer not to consider the possibility

pluralist; the Mosaic law does not. In short, natural revelation regarding the so-called First Table of the Law is understood by the Christian pluralist as having been provided by God in order to enable the New Testament-era covenant-breaker to move the covenant-keeper away from the Bible in matters judicial.[22]

4. Blasphemy

This law is part of the laws against blasphemy. But there is no operational concept of biblical blasphemy in the worldview of the Christian pluralist. The distinguished historian of law, Leonard W. Levy, has titled his study of the history of blasphemy laws in the West, *Treason Against God*. This is exactly what blasphemy is. As Rushdoony wrote in his discussion of the Moloch State: "Because for Biblical law the foundation is the one true God, the central offense is therefore treason to that God by idolatry. Every law-order has its concept of treason. No law-order can permit an attack on its foundations without committing suicide. Those states which claim to abolish the death penalty still retain it on the whole for crimes against the state. The foundations of a law-order must be protected."[23]

The Christian pluralist is embarrassed by these biblical concepts of civil law and blasphemy. There can be no public treason against the God of the Bible in the theoretical world of the Christian pluralist, for treason implies the necessity of negative civil sanctions, and the pluralist denies the legitimacy of such sanctions in questions of religion. The Christian pluralist allows the protection of God's name only as a by-product of civil laws that protect the names of all other gods: religion in general. This definition of blasphemy is inherently

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that the "divine Socrates" was a communist. But it matters little whether we begin with Socrates, Plato, or Aristotle; we wind up with statism: salvation through political participation. R. J. Rushdoony, *The One and the Many: Studies in the Philosophy of Order and Ultimacy* (Vallecito, California: Ross House, [1971] 2007), ch. 4. On the tyrannical implications of both Platonic philosophy and Aristotelian philosophy—culminating in Hegelianism—see Karl R. Popper, *The Open Society and Its Enemies*, 2 vols., 4th ed. (Princeton, New Jersey: Princeton University Press, 1963).

22. Fundamentalist Christians who see the threat in the area of geology and biology, or even psychology, nevertheless give away the case when it comes to civil law. They reject Darwin and Freud, but they accept John Locke and James Madison. In this, they agree with Leonard Levy, who begins his book Blasphemy with a citation from Madison. Levy, *Blasphemy: Verbal Offense Against the Sacred, from Moses to Salman Rushdie* (New York: Knopf, 1993), p. ix. The same citation appears on page xii of his earlier book, *Treason Against God: A History of the Offense of Blasphemy* (New York: Schocken, 1981).

23. R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), p. 38.

humanistic: public protection for every man's concept of god. The most dangerous form of blasphemy in the mind of the Christian pluralist is biblical theocracy: the denial of the public sovereignty of any God other than the biblical God. There are as many gods to be politically protected as men choose to defend, the pluralist insists.

Consider the argument against public blasphemy presented by Christian pluralist Gordon Spykman: "I would not allow public blasphemy because it offends other people."[24] That blasphemy offends God is politically irrelevant to such an outlook; its offense in Spykman's view is that it offends other people. This places fallen man at the center of judicial analysis. Harold O. J. Brown echoed Spykman: "Public blasphemy as well as false swearing should also be punishable by law. It would be logical to accord protection from insults to all religious groups, forbidding the mockery of things that people hold sacred."[25] Then what would Brown say about Elijah's comments at Mt. Carmel concerning the god of the court priests? "And they took the bullock which was given them, and they dressed it, and called on the name of Baal from morning even until noon, saying, O Baal, hear us. But there was no voice, nor any that answered. And they leaped upon the altar which was made. And it came to pass at noon, that Elijah mocked them, and said, Cry aloud: for he is a god; either he is talking, or he is pursuing, or he is in a journey, or peradventure he sleepeth, and must be awaked" (I Kings 18:26–27). Could Elijah legitimately have been arrested by King Ahab at that point for having committed a verbal assault on the religious sensibilities of the priests? Was Elijah a blasphemer? Was he deserving of death? By whose standard?

What of Elijah's subsequent actions? "And Elijah said unto them, Take the prophets of Baal; let not one of them escape. And they took them: and Elijah brought them down to the brook Kishon, and slew them there" (I Kings 18:40). Was Elijah the organizer of a mob? A conspirator in mass murder? A revolutionary? At the very least, was he an ecologically insensitive polluter? By whose standard?

What of King Josiah? "And he did that which was right in the sight of the LORD, and walked in all the way of David his father, and turned not aside to the right hand or to the left" (II Kings 22:2). He was the

24. Spykman, "Questions and Answers," in *God and Politics: Four Views on the Reformation of Government*, ed. Gary Scott Smith (Phillipsburg, New Jersey: Presbyterian and Reformed, 1989), p. 274.

25. Harold O. J. Brown, "The Christian America Position," *ibid*., p. 141.

most faithful king in Israel's history. "And like unto him was there no king before him, that turned to the LORD with all his heart, and with all his soul, and with all his might, according to all the law of Moses; neither after him arose there any like him" (II Kings 23:25). What did he do? "And all the houses also of the high places that were in the cities of Samaria, which the kings of Israel had made to provoke the LORD to anger, Josiah took away, and did to them according to all the acts that he had done in Bethel. And he slew all the priests of the high places that were there upon the altars, and burned men's bones upon them, and returned to Jerusalem" (II Kings 23:19–20).[26] Another polluter, this time of air!

Elijah, the great prophet of direct confrontation, and Josiah, the most faithful king, provide serious problems for Christian pluralists, who need a biblical principle of judicial discontinuity to defend their pluralism. Pluralists assume what they need to prove, namely, a biblical basis of this judicial discontinuity. Their failure to provide a biblically derived justification for this presumed judicial discontinuity has led them to redefine blasphemy in such a way that Elijah and Josiah have become blasphemers in retrospect. They have failed to understand that a common-ground definition of blasphemy—"a public assault on any god"—has placed them in the camp of the Roman emperors, who had a similar view of the sacrosanct position of the politically correct gods of the Roman pantheon. Their problem should be obvious: blasphemy is an inescapable concept. It is never a question of "blasphemy vs. no blasphemy." It is always a question of "blasphemy against which god?"

The text is clear: offering one's child to the fire god Molech was a capital crime. The justification for the law is equally clear: to uphold the sanctity of God's sanctuary and His name. Here was a crime: subjecting a child to an initiatory rite that was life-threatening. By participating in a system of inheritance and disinheritance that relied upon demonic powers to determine the survivors of the ordeal, the covenant-breaker committed a boundary violation so heinous that God required his execution by public stoning. The resident alien was subject to this law. In short, the God of Mosaic Israel was not a pluralist. This is why the Mosaic law is a profound embarrassment for the Christian pluralist.

26. Also worth noting: "And he brake down the houses of the sodomites, that were by the house of the LORD, where the women wove hangings for the grove" (II Kings 23:7).

V. Is This Law Still in Force?

What principle of interpretation would lead us to conclude that this law is not still in force? The Bible-affirming expositor who claims that there is a total judicial discontinuity between the two covenants with respect to this law needs to identify the biblical basis of this alleged discontinuity.

The covenantal principle of inheritance teaches that the heirs of covenant-keepers will inherit the earth progressively over time. "His soul shall dwell at ease; and his seed shall inherit the earth" (Ps. 25:13). This is clearly one aspect of the seed laws, which were all fulfilled in Christ. Covenant-breakers are progressively disinherited. "For evildoers shall be cut off: but those that wait upon the LORD, they shall inherit the earth" (Ps. 37:9). The practice of Molech initiation reverses this principle of inheritance: infanticide, either physical or covenantal. It is therefore an abomination before God.

To the extent that the initiatory practice relies on demonic intervention to protect the child, this ritual will kill off more and more children as the demonic realm becomes weaker. When demons can protect no child from the fire, the participants will disinherit themselves. Presumably, this will reduce the number of participants over time. Also, the death of a child would subject the parent(s) and any cooperating priests to the civil law against murder. So, we would not expect to find large numbers of participants in such a religion. But the question still remains: What is the valid civil sanction against a participant whose child survives intact? If the rite really did threaten the survival of the child, what is the appropriate civil sanction?

Biblically, the answer is obvious: public execution by stoning. How much clearer could God's law be? But God's word is not taken seriously in this matter. Its very clarity constitutes an embarrassment for those who call themselves Christians. They would much prefer a bit of vagueness. Despite these preferences, the profaning of God's holy name is still the judicial issue: a special profaning far worse than mere verbal profanity. The issue is blasphemy and its appropriate civil sanction.

C. Citizenship and Separation

Then what of religious toleration? This raises the question of the existence of civil laws that are in no way religiously intolerant—religiously neutral laws. Such laws are not even conceptually possible,

let alone practical. But if this is the case, then what happens to the concept of citizenship?

Citizenship is inherently covenantal.[27] The citizen acknowledges the legitimacy of a sovereign, subordinates himself to the agents of that sovereign, agrees to obey the laws of that sovereign, swears allegiance to that sovereign, and inherits in terms of that sovereign. The Israelites were told by God that the Canaanites could not lawfully occupy the land even as resident aliens. There could be no lawful toleration of Canaanites within the land, for this would have meant toleration of the previous regional gods of the land. Only aliens from outside the land were to be allowed to dwell in the land. They could not become citizens except by becoming Israelites: through circumcision.

1. The Gods of the Land

This was a prohibition against Canaanitic gods, not the gods of immigrants. Why the distinction? Because of pagan theology in the ancient world. Except in Israel, a god in the ancient world was regarded either as a household god or the god of a particular nation.[28] There was always a danger that the Israelites would succumb to this false theology; thus, the gods of Canaan were to be destroyed, along with their representatives (once). Immigrants' gods were clearly regarded by their adherents as household gods, not gods of the land. Immigrants had left their respective homelands. They had to view their idols as possessing power only within the boundaries of the household. Immigrants were welcome in Israel, but the price of immigration was the forfeiture of the right to proselytize among the Israelites. The household gods of immigrants could not lawfully leave their households. They could not become public gods in Israel. That is, they could not lawfully take on the status of national gods. There was to be no public polytheism in Israel, political or otherwise.

27. Sutton, *That You May Prosper*, ch. 12.

28. We can see this false theology of local divinities in the disastrous analysis of Ben-hadad's advisors: "And the servants of the king of Syria said unto him, Their gods are gods of the hills; therefore they were stronger than we; but let us fight against them in the plain, and surely we shall be stronger than they" (I Kings 20:23). "And there came a man of God, and spake unto the king of Israel, and said, Thus saith the LORD, Because the Syrians have said, The LORD is God of the hills, but he is not God of the valleys, therefore will I deliver all this great multitude into thine hand, and ye shall know that I am the LORD" (I Kings 20:28).

2. The God Who Imposes Boundaries

Rushdoony's discussion of laws of separation is correct: "God identifies Himself as the God who separates His people from other peoples: this is a basic part of salvation. The religious and moral separation of the believer is thus a basic aspect of Biblical law."[29] Separation can be achieved in several ways, however. First, the believer can join other believers in a religious ghetto. This ghetto can be geographical, as in the case of certain Amish and Mennonite sects. It can be cultural, as in the case of much of modern fundamentalism and immigrant religious groups. It is always psychological, what Rushdoony called the permanent remnant psychology.[30] Second, the believer can seek the physical removal of unbelievers from the community, either through execution or expulsion. This physical removal of covenant-breakers was God's required method with respect to the Canaanites.

The problem here is honoring the biblical judicial concept of "the stranger within the gates": preserving liberty of conscience without opening the social order to a new law-order, which means a new god. The radical Anabaptists in Münster in 1533–35 and the Puritans in New England, 1630–65,[31] made the mistake of exiling residents for their failure to adhere to the community's religious and ecclesiastical confession. This practice denied the biblical legal status of the resident alien. Third, separation can be achieved covenantally: the removal of unbelievers from citizenship. This is what the New Testament mandates for covenant-keeping nations.

D. Intolerance: An Inescapable Concept

Political pluralism suggests a fourth path: ecclesiastical separation, partial cultural and intellectual separation,[32] and civil cooperation.

29. Rushdoony, *Institutes*, p. 294.

30. R. J. Rushdoony, *Van Til* (Philadelphia: Presbyterian and Reformed, 1960), p. 13.

31. A 1662 letter from Charles II to Massachusetts established liberty of conscience. It was not read in the Massachusetts General Court until 1665. In that year, the General Court repealed all laws that limited the vote to Congregational church members. The Court determined that citizens in the colony henceforth did have to be "orthodox in religion" and "not vicious in conversation," but they could be "of different persuasions concerning church government. . . ." Cited in Kai T. Erikson, *Wayward Puritans: A Study in the Sociology of Deviance* (New York: Wiley, 1966), p. 135.

32. Though not much: consider, for example, that virtually all American neo-evangelical colleges and seminaries willingly subordinate themselves to humanistic accreditation associations, humanistic professional associations, and so forth. There is no question who is in charge and who is subordinate in these relationships. On the lack of separation, see James Davison Hunter, *Evangelicalism: The Coming Generation* (Chicago: University of Chicago Press, 1987).

This requires a concept of a legitimate civil law-order that is formally independent from the revealed civil law-order in the Bible. Political pluralism requires the adoption of some version of natural law theory, either explicitly or implicitly.[33] This is a form of philosophical dualism: one law for God's covenant people as isolated (segregated) from the general culture, and another system of civil law for the judicially integrated community.

1. Rushdoony on Pluralism

Rushdoony in 1973 denied the biblical legitimacy of pluralism's defense of toleration; a decade later, he reversed his position.[34] He wrote in the Institutes: "Segregation or separation is thus a basic principle to religion and morality. Every attempt to destroy this principle is an effort to reduce society to its lowest common denominator. Toleration is the excuse under which this levelling is undertaken, but the concept of toleration conceals a radical intolerance. In the name of toleration, the believer is asked to associate on a common level of total acceptance with the atheist, the pervert, the criminal, and the adherents of other religions as though no differences existed."[35]

His statement is accurate, but it misses the main point. It is not separation with respect to private associations that is central to biblical covenantalism; rather, it is the segregation of the franchise. The non-Christian wants access to the franchise, i.e., to citizenship: the authority to participate in the defining and enforcing of civil law through the application of sanctions. Once he gains this, he moves to the state enforcement of integration of private associations. Having gained for himself legal toleration in the sharing of citizenship, he moves on to compulsory integration. He makes toleration mandatory: the denial of others' right to separate themselves from the hu-

33. Gary North, *Political Polytheism: The Myth of Pluralism* (Tyler, Texas: Institute for Christian Economics, 1989).

34. *Ibid.*, Appendix B: "Rushdoony on the Constitution." It is worth noting that Rushdoony after 1973 progressively emphasized his view of the continuing New Testament authority of the Mosaic dietary laws, which was the same period in which he progressively abandoned his earlier views on the original, orthodox American ecclesiastical tradition as theocratic, anti-revivalist, anti-pluralist, and anti-independency. On the shift, 1964–1979, in his views on the American ecclesiastical tradition, see Gary North, *Westminster's Confession: The Abandonment of Van Til's Legacy* (Tyler, Texas: Institute for Christian Economics, 1991), p. 80n. A separate diet, rather than participation in the Lord's Supper, became the basis of his personal segregation, not only from pagan culture but also from local church membership. In 1992, he declared the Chalcedon Foundation a church and began celebrating communion after a lapse of over 20 years.

35. Rushdoony, *Institutes*, p. 294.

manist agenda. In short, there is no neutrality. The ideal of universal tolerance is a myth; it is always a question of whose views get tolerated, whose do not, and on what terms.

There can and must be mutual toleration in history, God has announced, but the rival definitions of what constitutes toleration are irreconcilable. Toleration always means: "Toleration of my system's definition of toleration." Rival definitions of sovereignty cannot be reconciled. God's Bible-revealed law establishes that covenant-keepers and covenant-breakers cannot lawfully join in a covenantal civil bond; at best, they can honor a temporary cease-fire.[36] This is why those who defend Christian political pluralism invariably reject the continuing authority of biblical civil law.

Covenant-breakers eventually refuse to submit to God and His kingdom in history. This is why Satan's representatives rebel against God's people at the end of history (Rev. 20:7–9). Covenant-breakers cannot abide by the legitimate rule of covenant-keepers and the Bible's definition of civil toleration: the judicial concept of strangers within the gates. Biblical toleration is based on the necessity of biblical covenantal separation. Covenant-breakers must be separated from the civil franchise.

2. Intolerant Humanists

Biblical covenantal separation is not tolerated by covenant-breakers, who correctly perceive that God is going to separate them from the post-resurrection New Heaven and New Earth. They will receive the eternal second death in lake of fire (Rev. 20:14–15). This ultimate separation is an affront to them. Separation in eternity is based judicially on the rival theological content of men's faiths and their public confessions in history. Saving faith divides men from each other in history because it divides men from God in history and eternity. Saving faith is therefore an affront to covenant-breakers, who deeply resent the Christian doctrine of separation based on God's ethical terms and by His eternal sanctions.

The nineteenth-century atheist, Ludwig Feuerbach, clearly understood this Christian doctrine of mankind's separation by God's covenant, and he assailed it. This doctrine, for the humanist, is the unforgivable sin: the Christian denies that man is God, and as a direct result of this blasphemy against man, the Christian begins to make

36. Gary North, *Healer of the Nations: Biblical Blueprints for International Relations* (Ft. Worth, Texas: Dominion Press, 1987), ch. 9.

distinctions between those who believe in God and those who do not. Feuerbach wrote: "To believe, is synonymous with goodness; not to believe, with wickedness. Faith, narrow and prejudiced refers all unbelief to the moral disposition. In its view the unbeliever is an enemy to Christ out of obduracy, out of wickedness. Hence faith has fellowship with believers only; unbelievers it rejects. It is well-disposed towards believers, but ill-disposed towards unbelievers. In faith there lies a malignant principle."[37] Frederick Engels reported over four decades later that with this book, Feuerbach converted an entire generation of Hegelians to materialism, he and Karl Marx included.[38]

3. Biblical Tolerance

Toleration is biblically mandatory, but our definition of toleration must be biblical. There is no neutrality in language; Christians' definitions must be based on the Bible, not on some hypothetically neutral language. The Bible is intolerant of covenant-breakers' definitions disguised as supposedly neutral definitions. A Christian civil order should tolerate non-Christians in the same way that Israel was required to tolerate resident aliens: strangers in the gates. In response, non-Christians are required by God to show toleration to Christians, who progressively extend their rule over non-Christians until judgment day. That is, covenant-breakers are required by God to remain tolerant of the kingdom (civilization) of God in history.

Furthermore, if covenant-breakers remain merely tolerant, God will send them into His eternal torture chamber forever. God does not tolerate them beyond the grave. They must remain content in history to be non-citizens, living under the civil sanctions of the holy commonwealth. For the sake of receiving the positive sanctions of a godly civil order, they are required by God to tolerate their subordinate position as strangers in God's land. If covenant-breakers remain tolerant of God's kingdom in history as it extends its rule over them in every area of life,[39] His people are supposed to remain tolerant of them. Christians will progressively rule in history; non-Christians must progressively obey God's civil laws. This is the only toleration

37. Ludwig Feuerbach, *The Essence of Christianity*, trans. George Eliot (New York: Harper Torchbooks, [1841] 1957), p. 252.

38. Frederick Engels, *Ludwig Feuerbach and the End of Classical German Philosophy* (1888), in Marx and Engels, *Selected Works*, 3 vols. (Moscow: Progress Publishers, 1969), III, p. 344.

39. Kenneth L. Gentry, Jr., *The Greatness of the Great Commission: The Christian Enterprise in a Fallen World* (Tyler, Texas: Institute for Christian Economics, 1990).

that God establishes for His kingdom. But this statement is an affront to every rival religion, as well as to Christian pluralists. They much prefer rule by secular humanists.

Conclusion

The law prohibiting the dedication of children to Molech through initiation was a seed law. It was a law that governed inheritance and disinheritance, for it dealt with a pagan rite governing inheritance and disinheritance. Because of the presence of the temple sanctuary in the holy land of Israel, this law was also a land law. It was required to restrain the creation of alternative centers of worship: specifically, it prohibited strange fire. Strange fire defiled the sanctuary, even at a distance. Next, this law reduced the likelihood of the profanation of God's name. It was therefore a blasphemy law. Finally, because the child's life was placed at risk, it was a law against attempted murder. As a seed law and a land law, it is no longer judicially binding in New Covenant times. As a law against blasphemy, it is still judicially binding. But if the law is still binding, so is the biblically specified sanction: death by stoning.[40] The blasphemy aspect of the law takes

40. God's mandated method of execution—public stoning by the witnesses whose words condemned the criminal—is regarded as perverse even by those few Christians who still defend the legitimacy of the death penalty. They do not believe that God requires the trial's hostile witnesses to cast the first stones. But He does: "The hands of the witnesses shall be first upon him to put him to death, and afterward the hands of all the people. So thou shalt put the evil away from among you" (Deut. 17:7). Like twentieth-century humanists, Christians today regard God's mandated sanctions as barbaric; in this case, public execution by citizens. Why is this regarded as barbaric? The critics do not say. They do not think that have to say. "Everyone can see that such a thing is barbaric!" And so is God.

This law, if enforced, would place enormous responsibility into citizens' hands, both literally and figuratively. Christians today want to avoid such a fearful responsibility. They want the execution performed by some faceless bureaucrat behind closed doors, which is what God's law prohibits. Christians do not want the witnesses—those whose public words condemned the person to death—to suffer the psychological pressure of having to enforce their own words of condemnation. The witnesses' public judicial words are not to be enforced by their public judicial sanctions. Their words killed the person judicially, but the work of their hands is not supposed to kill the person biologically. The witnesses must not be burdened by the enormous emotional pressure of having to act out in public the judicial implications of their words. Word and deed are to be kept radically separate. The dirty work is to be done by a hireling, a professional executioner paid by the state.

God's law identifies the witnesses as God's agents, as well as the victim's agents. They are His agents both in their capacity as bringers of a lawsuit and as public executioners. They are to deliver the condemned person into God's heavenly court. In contrast, modern jurisprudence sees the witnesses as agents solely of the state. Then the state hires its own sanctions-bringer to execute judgment. The state consolidates

precedence over attempted murder. God is the intended victim of blasphemy: treason against God. The victim of attempted murder can refuse to press charges. He can specify a lesser penalty than God's law allows. Not so with blasphemy. The mandatory penalty is clear.

The sanctions attached to this law were sufficiently severe to reduce the likelihood of its widespread practice, if the law was enforced. It was not enforced, so God delivered the nation into the hands of the Assyrians and the Babylonians. It is worth noting that the negative sanction that was imposed by the pagan Nebuchadnezzar on the three youths who refused to obey his blasphemous law was a fiery furnace.

> Now if ye be ready that at what time ye hear the sound of the cornet, flute, harp, sackbut, psaltery, and dulcimer, and all kinds of musick, ye fall down and worship the image which I have made; well: but if ye worship not, ye shall be cast the same hour into the midst of a burning fiery furnace; and who is that God that shall deliver you out of my hands? (Dan. 3:15)

The result was the opposite of what the king expected: the youths survived inside the fire, but their escorts perished when they drew near to the fire: "Therefore because the king's commandment was urgent, and the furnace exceeding hot, the flame of the fire slew those men that took up Shadrach, Meshach, and Abed-nego" (Dan. 3:22). The king, seeing this, repented:

> Then Nebuchadnezzar spake, and said, Blessed be the God of Shadrach, Meshach, and Abed-nego, who hath sent his angel, and delivered his servants that trusted in him, and have changed the king's word, and yielded their bodies, that they might not serve nor worship any god, except their own God. Therefore I make a decree, That every people, nation, and language, which speak any thing amiss against the God of Shadrach, Meshach, and Abed-nego, shall be cut in pieces, and their houses shall be made a dunghill: because there is no other God that can deliver after this sort. Then the king promoted Shadrach, Meshach, and Abed-nego, in the

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its power by relieving the citizenry of their responsibilities. Not all of these responsibilities are economic.

Once the citizen is relieved of his judicial responsibility to cast stones against criminals, the can then take the next step: confiscate his weapons. Step by step, humanism's civil authority lodges at the top of the hierarchy. First, stoning by witnesses is eliminated. This removes the mark of judicial sovereignty from the citizen-witness: God's mandated sanctions-bringer. Second, God is eliminated by removing self-maledictory oaths under God by the witnesses. This makes the state the new god: defender of the oath. Third, gun control laws are legislated: the visible monopolization of sovereignty in the state. The state is no longer confessionally in between God and the oath-bound citizen. It is over the citizen and under no one.

> province of Babylon. Nebuchadnezzar the king, unto all people, nations, and languages, that dwell in all the earth; Peace be multiplied unto you. I thought it good to shew the signs and wonders that the high God hath wrought toward me. How great are his signs! and how mighty are his wonders! his kingdom is an everlasting kingdom, and his dominion is from generation to generation (Dan. 3:28–4:3).

Christian pluralists have yet to advance theologically as far as Nebuchadnezzar did. He saw who had inherited by fire, and then drew the proper conclusion: men should not defy the God of Israel. Christian pluralists do not believe that God's predictable historical sanctions are still in force. Therefore, they do not believe that the Bible's mandated civil sanctions are still in force. In short, they do not believe in inheritance through covenantal fire. The result of the triumph of Christian pluralism in religious thought and in the political theory of the West after 1700 has been the progressive disinheritance of Christians.[41]

41. North, *Political Polytheism*, Part 3.

21

INHERITANCE THROUGH SEPARATION

> *Ye shall therefore keep all my statutes, and all my judgments, and do them: that the land, whither I bring you to dwell therein, spue you not out. And ye shall not walk in the manners of the nation, which I cast out before you: for they committed all these things, and therefore I abhorred them. But I have said unto you, Ye shall inherit their land, and I will give it unto you to possess it, a land that floweth with milk and honey: I am the* LORD *your God, which have separated you from other people. Ye shall therefore put difference between clean beasts and unclean, and between unclean fowls and clean: and ye shall not make your souls abominable by beast, or by fowl, or by any manner of living thing that creepeth on the ground, which I have separated from you as unclean. And ye shall be holy unto me: for I the* LORD *am holy, and have severed you from other people, that ye should be mine.*
>
> LEVITICUS 20:22–26

The theocentric foundation of this law was God's act of covenantal separation: "I am the LORD your God, which have separated you from other people" (v. 24b). The Creator God has separated His people from all other people. This separation is not only historical; it is eternal. It is above all covenantal. It has ethical and judicial implications. The fundamental issue is holiness: the set-apartness of God and also of His people. This law was one of these implications of holiness. Some of these implications are still in force judicially; others are not. It is the task of the expositor to sort out—separate—these implications in terms of the biblical principle of holiness.[1]

1. Rival principles of interpretation have divided me from Rushdoony at this point: the interpretation of the dietary laws.

A. A Separate Land for a Separate Nation

This law recapitulates the warning in Leviticus 18:28: if they commit the evil acts that the Canaanites committed in the land, the land will vomit them out. They were required to obey God's revealed law. I have argued that this threatened negative sanction was an aspect of the land laws of Israel, confined geographically to the Promised Land, and annulled in A.D. 70 with the final annulment of the Old Covenant.[2] The office of "covenantal vomiter" has been taken by the resurrected Christ (Rev. 3:16). The land no longer acts as a covenantal mediator between God and man, either in Palestine or elsewhere. It does not provide covenantally predictable sanctions in the New Covenant era. But the Promised Land did do this under the Mosaic Covenant.

1. National Boundaries

In this passage, we find four basic themes of the Book of Leviticus: obedience to God's revealed law, covenantal separation, national holiness, and the inheritance of the land. Actually, the third theme, national holiness, is another way of expressing the first two themes. God compares the religious boundary around the people of Israel with the geographical boundary around the land itself. The continuing covenantal separation of the nation of Israel could be secured only by obedience to God's law, not by a strictly military defense of the nation's geographical boundaries. Secure geographical boundaries for Israel would be the product of covenantal faithfulness, not military strength as such.

> Some trust in chariots, and some in horses: but we will remember the name of the LORD our God (Ps. 20:7).

> Woe to them that go down to Egypt for help; and stay on horses, and trust in chariots, because they are many; and in horsemen, because they are very strong; but they look not unto the Holy One of Israel, neither seek the LORD! (Isa. 31:1).

The Promised Land's geographical boundary had formerly surrounded the nation—singular—that had occupied the land. The Canaanite nations are spoken of here in the singular, as a single culture: "ye shall not walk in the manners of the nation." According to the definition in Strong's Concordance, the Hebrew word translated here as "nation," commonly transliterated as goy (more accurately,

2. Chapter 10.

go'ee), is apparently derived from the same root as the Hebrew word for massing: "a foreign nation; hence a Gentile; also (fig.) a troop of animals, or a flight of locusts: Gentile, heathen, nation, people." It is the most commonly used Hebrew word for "nation" in the Old Testament.

2. Removing the Evil Stewards

For four generations, the Canaanites had been serving as stewards of the land in preparation for the conquest of the land by Israel. The land had been promised to the heirs of Abraham: "But in the fourth generation they shall come hither again: for the iniquity of the Amorites is not yet full" (Gen. 15:16).[3] This inheritance was historically assured. Meanwhile, the Canaanites continued to build houses, to till fields, and to plant orchards. This was useful labor for themselves and their heirs, but it was ultimately a process of building up an inheritance for the Israelites. "A good man leaveth an inheritance to his children's children: and the wealth of the sinner is laid up for the just" (Prov. 13:22).[4] The great-grandchildren of the Canaanites of Abraham's day lost their inheritance to the Israelites. But in the meantime, the Canaanites had acted as God's dominion agents, subduing the beasts of the field. It was better that covenant-breakers maintain authority over the animals than that the animals of the land roam free. God had made this promise to the Israelites in the wilderness:

> And I will send hornets before thee, which shall drive out the Hivite, the Canaanite, and the Hittite, from before thee. I will not drive them out from before thee in one year; lest the land become desolate, and the beast of the field multiply against thee. By little and little **I will drive them out from before thee, until thou be increased**, and inherit the land. And I will set thy bounds from the Red sea even unto the sea of the Philistines, and from the desert unto the river: for I will deliver the inhabitants of the land into your hand; and thou shalt drive them out before thee. **Thou shalt make no covenant with them, nor with their gods. They shall not dwell in thy land, lest they make thee sin against me**: for if thou serve their gods, it will surely be a snare unto thee (Ex. 23:28–33).

In Leviticus 20:22–26, we find the same two themes: Israel's inheritance of the land and their absolute covenantal separation from the existing inhabitants of the land.

3. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, 2012), ch. 23.

4. Gary North, *Wisdom and Dominion: An Economic Commentary on Proverbs*, 2nd ed. (Dallas, Georgia: Point Five Press, [2007] 2012), ch. 41.

B. Sustaining Grace

The Promised Land was already a land flowing with milk and honey when the Israelites arrived. This material wealth had been set aside by God in Abraham's day as His gift to Abraham's heirs. The land contained raw materials of great value: original capital. "For the LORD thy God bringeth thee into a good land, a land of brooks of water, of fountains and depths that spring out of valleys and hills; A land of wheat, and barley, and vines, and fig trees, and pomegranates; a land of oil olive, and honey; A land wherein thou shalt eat bread without scarceness, thou shalt not lack any thing in it; a land whose stones are iron, and out of whose hills thou mayest dig brass" (Deut. 8:7–9).[5]

Furthermore, it contained secondary capital: marketable wealth, which was the product of other men's thrift and vision over several generations. "And it shall be, when the LORD thy God shall have brought thee into the land which he sware unto thy fathers, to Abraham, to Isaac, and to Jacob, to give thee great and goodly cities, which thou buildedst not, And houses full of all good things, which thou filledst not, and wells digged, which thou diggedst not, vineyards and olive trees, which thou plantedst not; when thou shalt have eaten and be full" (Deut. 6:10–11). This combined capital value—land plus labor—could be maintained intact long-term only by obeying God:

> Then beware lest thou forget the LORD, which brought thee forth out of the land of Egypt, from the house of bondage. Thou shalt fear the LORD thy God, and serve him, and shalt swear by his name. Ye shall not go after other gods, of the gods of the people which are round about you; (For the LORD thy God is a jealous God among you) lest the anger of the LORD thy God be kindled against thee, and destroy thee from off the face of the earth (Deut. 6:12–15).

So, the capitalized value of the land was part of God's promise to Abraham. It was therefore not earned by the Israelites. It was an unmerited gift: the biblical definition of grace.[6] But, once delivered into the hands of Abraham's heirs, possession of the land could be maintained only by national covenantal faithfulness, as manifested by the Israelites' outward obedience to God's statutes. Public obedience to

5. Gary North, *Inheritance and Dominion: An Economic Commentary on Deuteronomy*, 2nd ed. (Dallas, Georgia: Point Five Press, [1999] 2012), chaps. 19, 20.

6. Gary North, *Dominion and Common Grace: The Biblical Basis of Progress* (Tyler, Texas: Institute for Christian Economics, 1987), p. 4. By unmerited, I mean unmerited by the recipient. It was merited by Jesus Christ.

the Mosaic law was to remain the mandatory manifestation of their service to Him and fear of Him.

The familiar Christian hymn, "Trust and Obey," expresses the ethical nature of covenantal inheritance: "for there's no other way" to maintain this inheritance. (This hymn is sung enthusiastically by Protestants whose churches officially deny its theology of sanctification.) Abraham was told to trust God. This meant trusting God's promises. His heirs were also to trust these promises. The outward manifestation of this trust was circumcision. Without this outward act of obedience, the Israelite ceased to be an Israelite, and therefore he removed himself and his heirs from the promised inheritance. So, the inheritance of the land was a pure gift from God, but to remain the beneficiary of this unmerited legacy, the recipients of the promise had to obey the terms of the covenant. It was not that their obedience was the legal foundation of the promise. The promise of God was its own legal foundation. But obedience was the legal basis of their remaining in the will of God, in both senses: the moral will and the testamentary will. A refusal to place the mark of the covenant—a symbolic boundary—on the flesh of all one's male heirs was an act of self-disinheritance. Excommunication became mandatory: a cutting off from the people, i.e., a kind of judicial circumcision of the nation. Covenant-keepers who broke this commandment were to be treated as foreskins.[7]

The primacy of God's redemption does not nullify the mandatory nature of man's secondary response: obedience. After all, we do not sing, "Trust and Disobey," despite the fact that antinomian theologies implicitly affirm the theological legitimacy of such a view of the promises of God. God's promise initiates; man's obedience reciprocates. Both are equally aspects of grace. As Paul wrote: "For by grace are ye saved through faith; and that not of yourselves: it is the gift of God: Not of works, lest any man should boast. For we are his workmanship, created in Christ Jesus unto good works, which God hath before ordained that we should walk in them" (Eph. 2:8–10).[8] The redeemed person's lifetime of positive ethical responses is as completely foreordained as his initial regeneration is, and therefore equally a gift from God. This was (and remains) true of national covenantal

7. Saul's demand that David provide a bride price for Michal of a hundred Philistines' foreskins points to this judicial meaning of the foreskin (I Sam. 18:25).

8. It is worth noting that twentieth-century American fundamentalists committed Ephesians 2:8–9 to memory, but rarely if ever mentioned verse 10.

redemption and response. Redemption is primary; obedience is secondary; both are aspects of grace.

C. The Dietary Laws

The prohibition against eating certain foods was part of the land laws of Israel. This passage makes it clear that the reason why God imposed the food laws was to preserve the nation's separation. "Ye shall therefore put difference between clean beasts and unclean, and between unclean fowls and clean: and ye shall not make your souls abominable by beast, or by fowl, or by any manner of living thing that creepeth on the ground, which I have separated from you as unclean" (v. 25). These animals had not been prohibited before God led them out of Egypt. The distinction between clean and unclean had been present in Noah's day (Gen. 7:2, 8), but no prohibition against eating unclean beasts was announced at that time. In this sense, the clean-unclean distinction was prophetic for Noah. The distinction was established so that Noah would take seven times as many pairs of clean beasts into the ark (Gen. 7:2). The distinction had significance for the future of Israel—the increased likelihood of the survival of clean beasts—but not for Noah's day. Otherwise, the detailed food laws of Leviticus would have been given to Noah. But they weren't. "Every moving thing that liveth shall be meat for you; even as the green herb have I given you all things" (Gen. 9:3).[9] Abraham was under no dietary restrictions; God's promise of the land did not involve dietary separation. Joseph was under no dietary restrictions in Egypt. Clearly, the dietary laws were not cross-boundary laws.

A society's diet separates it from other societies almost as completely as its language does. It is very difficult for overweight people to lose weight permanently because of people's almost unbreakable eating habits. To change a society's eating habits takes generations, even assuming extensive contact with foreigners (which Israel did experience because of her open borders). Immigrants, or the children of immigrants, slowly adopt the foods of their host nation. The Mosaic dietary laws forced a major cultural break with the home nation for all those who became circumcised resident aliens in Israel.

9. Given his insistence of the authority of the Mosaic food laws in the New Testament, Rushdoony should have commented on Genesis 9:3 in *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973). There is only one reference to this verse, in the middle of a block quotation from another author (p. 36). The verse is not even cited in the Scripture Texts index in volume 2, *Law and Society* (Vallecito, California: Ross House, 1982).

1. Covenantal Separation or Biological Health?

Covenantal separation inside the Promised Land was the goal of these laws, not dietary health as such. What about outside the Promised Land? The young Israelites in the court of Nebuchadnezzar refused to eat any food prepared by the Babylonians except vegetables and water. These self-imposed restrictions had not been mandated by the dietary laws of Leviticus. It was the king's choice food and wine that they refused to eat, not unclean or abominable animals. Wine had not been prohibited to them by the Mosaic law, but they refused to drink the king's wine (Dan. 1:8). Despite their diet of vegetables and water—no fat—the four Israelite youths looked fatter at the end of 10 days than those Babylonian youths who had been eating from the king's menu (Dan. 1:15). This was nothing short of miraculous. That, of course, was the whole point: a visible demonstration of the sovereignty of God in the lives of the four youths. The prescribed food of the supposedly divine king of Babylon produced a less healthy appearance in his servants than the uncharacteristically restricted diet produced in the four judicial representatives of Israel.

There are vegetarian cultists today who point to this incident as proof of the superiority of vegetarianism. This is a misapplication of the text. What the Hebrew youths and their captors all knew was that the diet decreed by the king was superior fare by conventional Babylonian and Mosaic standards, yet it produced visibly inferior results. The fundamental issues in this unique case were separation (holiness) and the sovereignty of God, not the comparative caloric or nutritional content of the rival diets. The four youths demonstrated publicly that their God, not their diet, was the source of their physiological advantage.

The events of the next chapter in Daniel escalated the competition between rival covenants: the comparative ability of the representatives of each covenant to interpret dreams. In chapter three, the competition between covenants escalated again: the incident of the fiery furnace. Covenantal separation was the basis of their physical preservation: this was the lesson of both incidents involving the young men. The Babylonian king's ultimate negative sanction could not overcome God's deliverance of His representatives. For a while, at least, the king honored this covenantal reality. In chapter four, he relates his final confrontation with God—a unique chapter in the Bible, written in Aramaic by an uncircumcised author.

Why didn't the four youths insist on a conventional Levitical diet? Had the issue been comparative nutrition, this would have been

the public test of the two diets. But they did not request such a test. They simply wanted their rulers to see that a minimal diet—not a uniquely Levitical diet—would produce visibly superior results in the lives of covenant-keeping people. Insisting on a Levitical diet would have been an act of religious and political rebellion: the preservation of a defeated nation's diet. That was not their point. It was not that the Israelites possessed a uniquely healthy diet that had to be preserved outside the land; rather, it was the preservation of their covenantal commitment to the God of Israel, whose sovereignty extended beyond the land. While the young men did not request food that was prohibited by Leviticus, they also did not request the blessings—"fat"—of the Levitical diet: the best of the land. This should warn us: the Levitical dietary laws were laws furthering covenantal separation inside the Promised Land, not universal laws of health. To misunderstand this is to misunderstand covenant theology. To deny this is to deny covenant theology and replace it with "taste not–touch not" religion (Col. 2:20–23).

If the captive Israelites were required to honor the Mosaic dietary laws outside the Promised Land, how did Esther conceal her identity from her husband and Haman? Or was she in rebellion? Did God deliver His people from their enemies by means of a woman who openly defied God's law? Or is there a theologically simpler answer, namely, that the Israelites lawfully ignored the dietary law's requirements when they were in captivity outside the land, i.e., under the God-ordained authority of a rival civilization?

2. A Temporarily Marked-Off Nation

The dietary laws were imposed by God before the nation came into the Promised Land, but after the Israelites had left Egypt. These laws were given early in the wilderness experience. Throughout the 40 years, the people ate mostly manna. They were forced to refrain from newly prohibited foods, whatever their dietary tastes had been in Egypt. Therefore, these food laws were preparatory for the invasion. Manna, coupled with the food laws, forced the younger generation to grow up completely unfamiliar with the taste of covenantally prohibited animals. The manna ceased when the entered the land. After they conquered the land, they would have no eating habits to overcome, and therefore no gastronomical temptation to mix with any of the remaining tribes of Canaan.

These laws marked off the Israelites gastronomically, just as circum-

cision marked them off physiologically. The Levitical dietary laws were no more permanent than the Passover law—and no less permanent. In captivity, they could not journey to Jerusalem to celebrate the mandatory feasts. Abraham had been instructed to circumcise those males under his household authority, but he received no instruction regarding his diet. Why not? Because he did not dwell in the land of Canaan as a permanent owner. He was still a stranger in a strange land. He was a pilgrim. A pilgrim has no geographical headquarters, no geographical home. Abraham's earthly home was eschatological. God told him that his family's inheritance of the land would not take place until the fourth generation after him (Gen. 15:16). So, he did have to honor the law of circumcision, for circumcision identified who his heirs were: a law of covenantal separation. The Israelites in Joshua's day crossed the Jordan, camped and Gilgal, were circumcised, and celebrated the Passover in the land (Josh. 5:2–10). Then they ate the corn of the land: the spoils of conquest (v. 11). They thereby also claimed their inheritance. They thereby claimed their national headquarters. "And the manna ceased on the morrow after they had eaten of the old corn of the land; neither had the children of Israel manna any more; but they did eat of the fruit of the land of Canaan that year" (v. 12). At that point, they had the option of violating the dietary laws that Moses had announced four decades earlier. Their testing began at Gilgal.

The laws governing Passover had been given in Egypt before they crossed the boundary out of Egypt to enter the wilderness (Ex. 12). Passover's laws were primary in Mosaic Israel. They established the rite that would henceforth celebrate their deliverance from Egypt. Passover was celebrated inside Egypt. Passover announced symbolically points one and two of the biblical covenant: the sovereignty of God and His authority over the gods of Egypt. The dietary laws were secondary to the Passover laws, for they were given in the wilderness after the Israelites had crossed over Egypt's boundary. Like the laws of clean and unclean beasts for Noah, these laws were prophetic: tied to the fulfillment of Abraham's promise. These dietary laws had little immediate relevance in the wilderness; the nation survived on manna. Only when the Israelites crossed over the Promised Land's boundary, and were circumcised, did the manna cease. At that point, the dietary laws became relevant. This is why I argue that the dietary laws were tied to the land and the Levitical laws of inheritance. The dietary laws lost all covenantal relevance once the land of Canaan ceased to be an aspect of the Abrahamic promise: in A.D. 70.

The dietary laws reinforced point three of the covenant: covenantal boundaries. For as long as the boundaries of the Promised Land remained intact covenantally, Israelites were required to honor the dietary laws. The Levitical dietary laws were expressly historical: honoring the fulfillment of God's promise to Abraham regarding the land. They were laws that reinforced the Levitical laws governing landed inheritance. When the Levitical inheritance laws ceased, meaning when the jubilee land laws definitively ceased, the dietary laws also ceased. This is why Jesus laid down a challenge to the Pharisees, who were the defenders of the dietary laws: "Not that which goeth into the mouth defileth a man; but that which cometh out of the mouth, this defileth a man. Then came his disciples, and said unto him, Knowest thou that the Pharisees were offended, after they heard this saying? But he answered and said, Every plant, which my heavenly Father hath not planted, shall be rooted up. Let them alone: they be blind leaders of the blind. And if the blind lead the blind, both shall fall into the ditch" (Matt. 15:11–14). There would soon be a rooting up of the nation of Israel.[10] The old nation of priests (Ex. 19:6) was about to be replaced by a new nation of priests (I Peter 2:5, 9). A change in covenantal law is accompanied by a change in the priesthood (Heb. 7:12). This is why Peter was told repeatedly by God in a vision to eat unclean foods (Acts 10:15). Covenantal separation between Jews and gentiles had ended forever (Eph. 2). A new covenantal separation had arrived: Christian vs. non-Christian. A new dietary law accompanied this new form of covenantal separation: the Lord's Supper—a new dietary boundary.

Covenant-keeping man's defilement by unclean or abominable meats ceased as soon as the Lord's Supper replaced Passover. Gentiles outside the land were never under its restrictions. There was nothing intrinsically evil or unclean in any food (I Cor. 8:4).[11] There was only temporary uncleanness—as temporary as the covenantal status of the boundaries of the Promised Land. When Jesus announced that there has never been anything intrinsically unclean or defiling about any food, He was also announcing that there was nothing intrinsically sacrosanct about the boundaries of geographic Israel.

The Jews of Jesus' day thought that Israel's dietary laws, like Israel's geographical boundaries, would last forever. Today, Jews and

10. David Chilton, *The Days of Vengeance: An Exposition of the Book of Revelation* (Ft. Worth, Texas: Dominion Press, 1987).

11. Gary North, *Judgment and Dominion: An Economic Commentary on First Corinthians*, 2nd ed. (Dallas, Georgia: Point Five Press, [2001] 2012), ch. 10.

Anglo-Israelites suppose that the Mosaic dietary laws are still binding. But the covenantal significance of Israel's geographical boundaries and the dietary laws ended together: the demise in A.D. 70 of national Israel and the temple sacrifices. As Paul wrote to a gentile church, "Wherefore if ye be dead with Christ from the rudiments of the world, why, as though living in the world, are ye subject to ordinances, (Touch not; taste not; handle not; which all are to perish with the using;) after the commandments and doctrines of men? Which things have indeed a shew of wisdom in will worship, and humility, and neglecting of the body; not in any honour to the satisfying of the flesh" (Col. 2:20–23). Apart from national Israel under the Mosaic law, such commandments regarding unclean food have always been "the commandments and doctrines of men." When the temple's veil was torn immediately after Christ's death (Matt. 27:51), de-sanctifying the holy of holies, the Mosaic Covenant's dietary laws became the commandments and doctrines of men. Honoring the dietary laws today is only "a shew of wisdom in will worship, and humility, and neglecting of the body." This is false wisdom and false humility.

When the promised Seed arrived (Gal. 2:16), instituting His new covenant, the circumcision law was annulled, replaced by the rite of baptism. Similarly, when the Holy Spirit arrived, the Lord's Supper replaced Passover and its ancillary dietary laws. Covenantal separation was not annulled; its Abrahamic Covenant ritual marks were annulled. Then God announced to Peter the annulment of the dietary laws (Acts 10:15). This marked the end of the Mosaic land laws and the end of Israel as national headquarters. Henceforth, there would be no national headquarters for God's covenant people. The church replaced Israel as headquarters. Henceforth, the pursuit of the Great Commission would no longer be restricted by national headquarters or dietary restrictions.

D. Rushdoony on the Dietary Laws

Because of a theological division within the Christian Reconstruction movement, I need to devote a little space to Acts 10. In a vision, God announced to Peter His definitive annulment of the Mosaic dietary laws:

> On the morrow, as they went on their journey, and drew nigh unto the city, Peter went up upon the housetop to pray about the sixth hour: And he became very hungry, and would have eaten: but while they made ready, he fell into a trance, And saw heaven opened, and a certain vessel descending unto him, as it had been a great sheet knit at the four corners, and let down

> to the earth: Wherein were all manner of fourfooted beasts of the earth, and wild beasts, and creeping things, and fowls of the air. And there came a voice to him, Rise, Peter; kill, and eat. But Peter said, Not so, Lord; for I have never eaten any thing that is common or unclean. And the voice spake unto him again the second time, What God hath cleansed, that call not thou common. This was done thrice: and the vessel was received up again into heaven (Acts 10:9–16).

Rushdoony's comment on Acts 10 asserts, but does not prove, his opinion that the dietary laws are still in force. He writes: "Acts 10 is commonly cited as abolishing the old dietary restrictions. There is no reason for this opinion. . . . There is no evidence in the chapter that the vision had anything to do with diet; . . ."[12] Notice his rhetorical flourishes: "no reason," "no evidence" and "anything to do with diet." Rhetoric is not a valid substitute for theology and exegesis. I wrote a detailed essay challenging his theory in 1970; I reprinted it in 1984; Rushdoony never responded to it.[13] If his position were theologically defendable, he should have replied.

Rushdoony insists that the Mosaic dietary laws are still mandatory as health laws. "The various dietary laws, laws of separation, and other laws no longer mandatory as covenantal signs, are still valid and mandatory as health requirements in terms of Deuteronomy 7:12–16."[14] Mandatory means required by God. That is, obedience to the dietary laws are tests of a Christian's covenantal faithfulness to God, whether or not Rushdoony was willing to include the food laws explicitly under the category of covenantal laws. They must be obeyed if they are mandatory.

He asserted that God's command to Peter to eat unclean foods (Acts 10:15) had nothing to do with food, but rather with the Great Commission.[15] This misses—i.e., evades—the covenantal point: the Mosaic food laws had never been health laws but had always been laws of national covenantal separation: part of the Levitical land laws. The dietary laws had been imposed by God in order to restrict the Israelites' intimate contacts with foreigners at meals. This restriction only applied during the period in which the Promised Land was God's holy sanctuary and covenantal agent; it had not been imposed on Noah or Abraham. The Great Commission of the New Covenant

12. Rushdoony, *Institutes*, p. 301.

13. Gary North, "The Annulment of the Dietary Laws," *ICE Position Paper No. 2* (Nov. 1984), a reprint of a 1970 paper, privately distributed.

14. Rushdoony, *Law and Society*, p. 702.

15. Rushdoony, *Institutes*, p. 301.

accompanied the negation of this temporary judicial position of the land; hence, God commanded Peter to eat foods formerly banned. That is, God commanded Peter to break the Mosaic food laws. The text is quite clear: "And the voice spake unto him again the second time, What God hath cleansed, that call not thou common" (Acts 10:15). All food at that point in time became clean for all covenant-keepers. This vision was God's graphic revelation of His definitive annulment of Mosaic Israel's land laws: the end of its position as God's sanctuary. The final annulment came in A.D. 70.

It is worth noting that Rushdoony broke sharply with Calvin on this crucial covenantal point. Calvin stated emphatically in his comments on Acts 10 that anyone who today establishes distinctions among foods based on the Mosaic law has adopted a position of "sacrilegious boldness. Of this stamp were the old heretics, Montanus, Priscillianus, the Donatists, the Tatians, and all the Encratites. . . . We must always ask the mouth of the Lord, that we may thereby be assured what we may lawfully do; forasmuch as it was not lawful even for Peter to make that profane which was lawful by the Word of God."[16]

Finally, it is worth mentioning that Rushdoony ceased taking the Lord's Supper in any local church around 1970. He only began taking it again in 1992, when he announced that Chalcedon, a non-profit educational institution chartered by the United States government, had somehow become a church, and he was its pastor. Thus, his theory of the dietary laws—something he did not honor in his own household prior to the late 1960s—paralleled his departure from membership in a local church.[17]

Conclusion

The inheritance of the land by the Israelites was part of God's promise to Abraham. To maintain this inheritance, the Israelites were required to obey God's laws. This was the basis of their inheritance. The covenantal mark of such obedience was circumcision. They also had to honor Passover and the dietary laws. These were laws of separation. A separate land required a separated people. But this Mosaic separation was temporary.

16. John Calvin, *Commentary on the Acts of the Apostles*, 2 vols. (Grand Rapids, Michigan: Baker, [1560] 1979), I, pp. 422–23.

17. Gary North, *Tithing and the Church* (Tyler, Texas: Institute for Christian Economics, 1994), ch. 10.

God is holy—set apart—from all other gods (Ex. 20:2–3).[18] The people of Israel were therefore set apart by God from all other nations on earth. Israel's national boundaries were sacred. That is, they were tied to the sacrificial system. A series of boundaries surrounded (marked off) the temple in which God's authorized sacraments were performed by His authorized agents.[19] God established three separate covenantal jurisdictions—ecclesiastical, civil, familial—to be maintained within these national boundaries. The Israelites were given a sanctuary from the rest of the world: a place where God's judicial sanctions would be applied in terms of His law.

Their ethical, judicial, and geographical holiness was to be manifested by what they ate and did not eat: primarily at the Passover meal and secondarily by the dietary laws. This holiness or separation was ritually reinforced by the Passover meal and the special dietary restrictions. The Passover laws were both positive and negative. At the Passover, Israelites were required to eat certain foods and forbidden to eat leavened bread. The dietary laws were exclusively negative. Neither of these food laws was a civil requirement. The Passover laws and the dietary laws were to be enforced only by family and ecclesiastical governments.

With the abrogation of the Old Covenant order came the abrogation of the Mosaic food laws: Passover and the "pork" laws.[20] This abrogation ended with the abrogation of the Promised Land's historically unique position as an agent of God's sanctions. That is to say, the positive and negative sanctions associated with the Abrahamic promise regarding the land ceased to be relevant in history. Prior to the fall of Jerusalem in A.D. 70, the Promised Land was said to spew out evil-doers: symbolically, disgorging something that should not have been eaten. This meant that the land was an arena of covenantal confrontation: sanctions that were primarily military in nature. The Israelites would drive out the Canaanites; if they subsequently rebelled, other nations would drive them out.

After A.D. 70, the land of Israel lost its special covenantal status. The Mosaic sacrificial system was cut off.[21] In no sense—militarily or

18. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 1: *Representation and Dominion* (1985), ch. 1.

19. Gary North, *Sanctions and Dominion: An Economic Commentary on Numbers*, 2nd ed. (Dallas, Georgia: Point Five Press, [1997] 2012), ch. 3.

20. James B. Jordan, *Pig Out? 25 Reasons Why Christians May Eat Pork* (Niceville, Florida: Transfiguration Press, 1992).

21. One result of this was the appearance of a new religion, Judaism.

environmentally—is land to be regarded today as a covenantal agent. Under the New Covenant, common grace and common curses have completely replaced special grace and special curses with respect to the climate: sunshine and rain, drought and flooding. God the Father "maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust" (Matt. 5:45).[22] Only to the extent that climate is directly influenced by man's science and practices does it manifest covenantally predictable sanctions: blessings and cursings.

22. Gary North, *Priorities and Dominion: An Economic Commentary on Matthew*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 10.

INTRODUCTION TO PART IV: COVENANTAL ACTS (LEV. 23–24)

And the LORD *spake unto Moses, saying, Speak unto the children of Israel, and say unto them, Concerning the feasts of the* LORD*, which ye shall proclaim to be holy convocations, even these are my feasts.*

LEVITICUS 23:1–2

And thou shalt speak unto the children of Israel, saying, Whosoever curseth his God shall bear his sin. And he that blasphemeth the name of the LORD*, he shall surely be put to death, and all the congregation shall certainly stone him: as well the stranger, as he that is born in the land, when he blasphemeth the name of the* LORD*, shall be put to death.*

LEVITIUS 24:15–16

Leviticus 23 and the first section of Leviticus 24 are concerned with corporate religious feasts. The second half of Leviticus 24 deals with blasphemy. The judicial link between these passages is point four of the biblical covenant: sanctions. The first section deals with covenant renewal through participation in corporate covenant-renewal celebrations. The second section deals with individual covenant-breaking by oath.

Leviticus 23 lists the three national covenant-renewal celebrations: Passover (vv. 4–8); Firstfruits (vv. 10–21); and Tabernacles or booths (vv. 23–44). Verse 22 is seemingly a textual anomaly: "And when ye reap the harvest of your land, thou shalt not make clean riddance of the corners of thy field when thou reapest, neither shalt thou gather any gleaning of thy harvest: thou shalt leave them unto the poor, and to the stranger: I am the LORD your God." I discuss in Chapter 22 the reason why the gleaning law of Leviticus 19:9 is recapitulated in the middle of the section on the three feasts.

Covenant is an inescapable concept. A man must affirm a cov-

enant of some kind. He is, in Meredith G. Kline's words, by oath consigned. Covenantal affirmations in the modern world are usually implicit rather than explicit. Civil covenants are not normally established by explicit public oath except for political office-holders and members of the military. Marriage is today regarded as a contract rather than an oath-bound institution under God's sanctions in history. Baptism is also not regarded as an oath-sign, nor is the Lord's Supper regarded as an act of covenant-renewal. People make and break covenants without knowing what they are doing.

22

MUTUAL SELF-INTEREST: PRIESTS AND GLEANERS

> *And when ye reap the harvest of your land, thou shalt not make clean riddance of the corners of thy field when thou reapest, neither shalt thou gather any gleaning of thy harvest: thou shalt leave them unto the poor, and to the stranger: I am the* LORD *your God.*
>
> LEVITICUS 23:22

The gleaning statutes reflected the theocentric principle of God as the absolute owner of the land, who possessed the authority to set the terms of management for His "sharecroppers," the Israelites.

A. The Festival of Pentecost

This passage comes in between sections on two required national feasts: Pentecost or "weeks" (vv. 15–21) and Tabernacles or "booths" (vv. 34–43). Pentecost was the celebration of the harvest. It took place 50 (pentekosté: fiftieth) days after Passover. As in all the other national festivals, sacrifices to God were required. What made this feast unique were two things: it was a one-day festival rather than a full week, and it mandated the use of leavened bread (v. 17).

Passover prohibited all leaven (Ex. 12:15). Leaven's symbolism of growth is the reason for both the prohibition and the subsequent requirement at Pentecost. It was Egypt's leaven that was prohibited at Passover: the covenantal necessity of ethical discontinuity with evil. It was Israel's leaven—the product of the Promised Land—that was mandated at Pentecost: the covenantal necessity of ethical continuity with righteousness.

Pentecost was understood by the rabbis as the anniversary of the

giving of the Ten Commandments.[1] It was a third-month feast. The law was given to Moses in the third month (Ex. 19:1) on the third day of the week (Ex. 19:16). Tabernacles was a seventh-month feast (Lev. 23:24). It completed the annual cycles of three feasts. This structure parallels the week of purifications for the person who had come in contact with a dead body: third-day purification and seventh-day release (Num. 19:11–12).[2]

Pentecost was closely associated with the harvest.[3] It was a grain-related feast. The festival required the following: "Ye shall bring out of your habitations two wave loaves of two tenth deals: they shall be of fine flour; they shall be baken with leaven; they are the firstfruits unto the LORD" (v. 17). These loaves were separate representative offerings made by the priests. All of Pentecost's offerings had to take place on one day. To offer 1.2 million loaves of bread before (not on)[4] the altar in one day was not possible. Also, in addition to the loaves were required seven lambs, two rams, and a young bullock (v. 18), plus a goat kid and two more lambs (v. 19).[5] These animal sacrifices were corporate sacrifices. There is no way that these offerings were required from every family.

Edersheim says that the temple's doors were opened at midnight. The offerings had to be made before sunrise: the time of the mandatory morning offering.[6] He does not say how the rabbis determined the midnight hour, which makes his hypothesis less plausible. Men were required to bring free will offerings (Deut. 16:10). Presumably, during the period from midnight to sunrise, they brought these offerings into the tabernacle or temple.

A family's main cost of the feast of Pentecost was not the value of the free will offering. It was the cost of the journey itself.

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1. Alfred Edersheim, *The Temple: Its Ministry and Services As They Were in the Time of Jesus Christ* (Grand Rapids, Michigan: Eerdmans, [1874] 1983), p. 261.

2. James Jordan, *The Law of the Covenant: An Exposition of Exodus 21–23* (Tyler, Texas: Institute for Christian Economics, 1984), p. 57.

3. Gordon J. Wenham, *The Book of Leviticus* (Grand Rapids, Michigan: Eerdmans, 1979), p. 304.

4. Leaven was not allowed on the altar (Lev. 2:11).

5. The Jews doubled the number of sacrifices by offering separately those required in Numbers 28:26, 27, 30 and Leviticus 23:18. On this point, Josephus' first-century observations and Maimonides' evaluation of rabbinical texts agree. "Pentecost," *Cyclopaedia of Biblical, Theological, and Ecclesiastical Literature*, 12 vols., eds. John M'Clintock and James Strong, 12 vols. (New York: Harper & Bros., 1894), VIII, pp. 925–26.

6. Edersheim, *Temple*, p. 263.

B. Gleaning, Again

Leviticus 23:22 is a recapitulation of the gleaning law of Leviticus 19:9.[7] The question is: Why did God here remind the Israelites of the land owners' responsibility to the landless poor, at the end of the passage that set forth the laws governing Pentecost ("weeks")? This question has baffled orthodox Bible commentators. S. H. Kellogg offered comments on Pentecost (vv. 15–21), but then skipped verse 22 to begin commenting on the convocation of trumpets (vv. 23–25).[8] Andrew Bonar referred back to Leviticus 19:9 and concludes: "In this manner, love to man was taught in these thanksgiving feasts, at the very time that love to God who so kindly gave them their plenty was called forth and increased." He then went on to offer an allegorical interpretation, with the gleaners as members of a remnant: gentiles in the Old Covenant, Jews in the New Covenant. "A feast is coming on that will unite Jew and Gentile in equal fulness."[9] But this does not explain why the gleaning law for the fields was repeated here, or perhaps more to the point, why it first appears in Leviticus 19:9 rather than here. Gordon Wenham thought that the connection between Leviticus 19:9 and 23:22 may be the requirement to care for the poor: the Levites, the poor, and the stranger. There may be a link here: shared poverty.[10] But why should the Levites and priests have been poor? They received the tithes and sacrifices of the tribes. They could also own real estate in the cities. The commentators are confused about the reason behind the recapitulation.

There is a reason for this recapitulation: a shared economic link. There is also a reason for the confusion of the commentators. The reason is their lack of knowledge about, or interest in, economic theory. This lack of knowledge has left gaps in our understanding of biblical law.

C. Laws of Inheritance

To begin to understand the relationship between the gleaning laws and the feasts, we first need to recognize that the land of Israel was an inheritance from God. Land ownership in Israel was part of the

7. Chapter 11.

8. S. H. Kellogg, *The Book of Leviticus* (Minneapolis, Minnesota: Klock & Klock, [1899] 1978), pp. 459–61.

9. Andrew Bonar, *A Commentary on Leviticus* (London: Banner of Truth, [1846] 1966), p. 411.

10. Wenham, *Leviticus*, p. 305.

original spoils of war. Only those who fought the Canaanites could claim an inheritance in the land (Num. 32:16–23). Before the conquest began, God set forth the laws governing land ownership after Israel took possession. These laws were laws of landed inheritance. The Levitical priesthood possessed the authority to declare these laws and apply them to specific cases.

The special judicial status of the nation of Israel depended on the presence of an absolutely sovereign God (point one of the biblical covenant model).[11] The Levites and priests were God's primary representatives (point two)[12] because the priesthood had the primary responsibility of defending the moral purity of the land (point three).[13] The priests possessed only one final sanction: excommunication (point four).[14] They could disinherit covenant-breakers (point five).[15] Inheritance is the key to a proper understanding of the economic link between the priesthood and the gleaners. The poor had been temporarily disinherited by economic events or some other reason: no income from their family land. The Levites and priests had no landed inheritance in rural Israel; their inheritance was the tithe. Between the two groups there was a shared economic goal: the maintenance of income from rural land. The gleaners were poor; the Levites and priests did not want to become poor. The gleaners wanted a share of the crop; the Levites and priests wanted a share of the crop. Because of the structure of the laws governing gleaning, each group helped the other to achieve its economic goal.

God mandated gleaning in Israel. A land owner's refusal to honor the gleaning law, like his refusal to honor the tithe, was an excommunicable offense. The threat of this shared negative sanction—reduced income—is what linked the Levitical priesthood to the gleaners.

D. Economic Motivation

The land owner sent his harvesting crew into the fields before the gleaners gained access. Gleaners got only the leftovers. Land owners were required by God's law to honor the laws of gleaning. They could not lawfully have their economic agents harvest the corners of the fields. That portion of the crop belonged by law to the gleaners. The

11. Transcendence/presence. See Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, 1992), ch. 1.
12. Hierarchy/representation. *Ibid.*, ch. 2.
13. Ethics/boundaries. *Ibid.*, ch. 3.
14. Oath/sanctions. *Ibid.*, ch. 4.
15. Succession/inheritance. *Ibid.*, ch. 5.

poorest members of the able-bodied community had a legal right to this portion of the crop.

The question is: Which covenantal agency possessed lawful authority to enforce this law? Was it the state or the church? I have already announced my opinion: this legal right of the poor was not to be enforced by the state.[16] The state was not an agency of charity under the Old Covenant. It was an agency of compulsion: negative sanctions. It was not an agency authorized by God to bring positive sanctions. To gain ownership of assets, or the power to allocate assets, which was necessary for bringing positive sanctions to one group, the state would have had to threaten negative sanctions against others. This was not allowed by God's law: the same laws had to apply equally to all residents of the nation (Ex. 12:49). Civil judges were not to discriminate between rich and poor (Lev. 19:15). The church, however, can lawfully bring positive sanctions as the agency of reconciliation—man and nature's reconciliation to God—and as an agency of healing: man and nature.

1. Self-Interest and Law Enforcement

My assertion of the designation of the priests as the enforcers of the gleaning law raises the question of economic motivation. While there may be individuals who at times place the interests of the community, or some segment of the community, above their own personal self-interest, no society can safely be constructed which relies exclusively on the widespread voluntary suppression of personal self-interest among those who are given monopolistic authority to impose negative sanctions on others. Liberty and justice require that the legal order acknowledge the fact that the personal self-interest of judges must be dealt with institutionally. Negative sanctions must be brought against those officials who make decisions that favor their interests at the expense of segments of the general public.

This institutional guideline is true for non-profit organizations, not just civil governments. I would not go so far as to say that it is equally true of priesthoods, since priesthoods formally are committed to a doctrine of sanctions beyond physical death, either a final judgment imposed by a divinity or the judgment of the impersonally applied moral laws of karma: an extension of the results of personal behavior through reincarnation. Thus, a priest may have a concept of personal self-interest that is longer or more apocalyptic than that

16. Chapter 11:B.

adopted by a civil judge, or even more to the point, by a twentieth-century academic economist. But even non-profit organizations and priesthoods must acknowledge the potential conflict of interests between the power to impose negative sanctions and the public interest. Rewards and punishments must be built into the institutional system in order to reduce the profitable exploitation of such conflicts of interest, since the public interest will normally be sacrificed in these conflicts.

2. Public Choice Theory

In order to understand and then predict the decisions made by sanctioning agents, we need to consider the influence of self-interest. If we want to increase the likelihood that people will act in a particular way, we must see to it that they are rewarded for performing in the preferred way and punished for deviating. This includes government officials—those who possess the right to impose sanctions. This was the insight by economist James Buchanan that won him a Nobel Prize in economics in 1986. Buchanan and his associate, legal theorist Gordon Tullock, pioneered a specialty in economics called public choice theory.[17] This economic approach to understanding institutions assumes that (1) all institutions, including political and judicial institutions, are the product of individual decisions, and (2) official decisions of organizations are based on the personal self-interest of those vested with the institutional authority to make them. In an introductory economics textbook committed to public choice theory, Gwartney and Stroup wrote: "The government is not a supraindividual that will always make decisions in the 'public interest,' however that nebulous term might be defined. It is merely an institution through which individuals make collective decisions and through which they carry out activities collectively." They continued: "The basic postulate of all economics is that changes in expected costs and benefits will cause decision-makers to alter their actions in a predictable way. Specifically, as the personal costs of an event increase (and/or the benefits decline), decision-makers will be less likely to choose the event. As costs decline and benefits increase, the opposite tendency will be true. This postulate will be maintained throughout our analysis of

17. James Buchanan and Gordon Tullock, *The Calculus of Consent: Logical Foundations of Constitutional Democracy* (Ann Arbor: University of Michigan Press, 1962). Tullock did not win the Nobel Prize with Buchanan in 1986, he believes, because he had never taken an economics course. I discussed this with him in 1988 at an Eris Society meeting in Aspen, Colorado.

market behavior. Similarly, it will be utilized to yield insight on the organization and functioning of the public sector."[18]

This insight on at least one set of human motivations governing institutional action—costs and benefits—must be respected by the social theorist. We must apply this insight to the behavior of those people who have been invested by God with covenantal authority. We therefore need to pursue the question of law-enforcement in Old Covenant Israel. If the Levites and priests were in fact the covenantal agents assigned by God to enforce the gleaning laws, then we should not expect God's law to rest on the assumption that the Levites and priests would normally carry out this assignment against their personal self-interest. We should expect rather to find judicial safeguards that protected their interests as they went about their judicial assignments. This is exactly what we find in the case of the gleaning laws.

E. How to Pay Judges

Judges should not take bribes. "And thou shalt take no gift: for the gift blindeth the wise, and perverteth the words of the righteous" (Ex. 23:8).[19] "Thou shalt not wrest judgment; thou shalt not respect persons, neither take a gift: for a gift doth blind the eyes of the wise, and pervert the words of the righteous" (Deut. 16:19).[20] Judges should declare God's law and apply it to specific cases that come before them. This is a basic operating premise of biblical jurisprudence. The availability of personal gain is not to influence the judges' decisions. Having said this, we should also acknowledge the bribery law's economic corollary: judges should not suffer losses because of their decisions. Their decisions should not make them poorer. Thus, we conclude, judges' income should not be affected positively or adversely by their decisions. This is why they should be paid agreed-upon salaries by the sanctioning institution irrespective of their decisions for as long as they are employed by that institution. This rule governs both church and state.[21] This is also why they should not be allowed to

18. James D. Gwartney and Richard Stroup, *Economics: Private and Public Choice*, 2nd ed. (New York: Academic Press, 1980), p. 75.

19. Gary North, *Authority and Dominion: An Economic Commentary on Exodus* (Dallas, Georgia: Point Five Press, 2012), Part 3: *Tools of Dominion* (1990), ch. 52.

20. Gary North, *Inheritance and Dominion: An Economic Commentary on Deuteronomy*, 2nd ed (Dallas, Georgia: Point Five Press, [1999] 2012), ch. 40.

21. The idea that a church member can legitimately reduce his tithe in retaliation against church officers is one of the most pernicious ideas in the modern church. This idea is the product of either of two errors. Error number one: a Christian can legitimately pay less than a tithe to God. Error number two: a Christian can lawfully pay

judge cases in which they are uniquely in a position to gain or lose because of their decision.

The question then arises: Were the Levites and priests threatened economically by their honest enforcing of the gleaning law? If they did enforce it, did they or the priesthood in general risk a loss of income? Even more to the point, would their income automatically have been reduced? Specifically, did the enforcement of "gleaner's rights" reduce the priesthood's portion of the crop collected from the land owners? If their income would have been automatically reduced by their commitment to upholding the gleaning laws, then we must conclude one of two things: (1) Mosaic Covenant law rested on the assumption that judges would consistently hand down impartial decisions that were against their economic self-interest, or (2) the Levites and priests were not the authorized covenantal agents to enforce the gleaning laws.

Leviticus 23:9–22 makes it clear that the Levites and priests were not threatened economically by the enforcement of the gleaning law. Their share of the crop during the two feasts was not reduced by whatever percentage was harvested by the gleaners. The land owner had to bring a specified quantity of the best of his crop as an offering to God, by way of the priesthood. This payment was owed to the Levites irrespective of the percentage of the crop harvested by the land owner's crew.

This payment was not part of the tithe; it was a separate offering. To understand the implications of this fact, consider the collecting of the tithe. Enforcing the gleaning law would not have threatened the church's income from tithes, since gleaners also owed a tithe, just as land owners did. A Levite's insistence that the gleaners be given access to the fields would not have threatened that portion of the tithe paid by gleaners. The gleaners would have understood to whom they

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less than a tithe to his local church if he redirects all or part of his tithe to another non-profit Christian agency. The former error is common to antinomian Christianity. See Gary North, *Authority and Dominion*, ch. 52:C. 791–93; cf. North, *Tithing and the Church* (Tyler, Texas: Institute for Christian Economics, 1994), Pt. 1. The latter is most prominently defended by R. J. Rushdoony, who wrote: "The tithe does not belong to the church or to any Christian agency, although it may be given to them. In whosoever hands it is, it belongs to the Lord. . . . Since the tithe is 'holy unto the Lord', it is our duty as tithers to judge that church, mission group, or Christian agency which is most clearly 'holy unto the Lord'." Rushdoony, "To Whom Do We Tithe?" in Rousas John Rushdoony and Edward A. Powell, *Tithing and Dominion* (Vallecito, California: Ross House, 1979), p. 30. For a critique of Rushdoony's views, see Appendix B: "Rushdoony on the Tithe: A Critique."

owed the enforcement of this law. Furthermore, the Levite's enforcement of the gleaning law would have tended to ensure the collection of the tithe from the land owners. The requirement of gleaners on a farm created a class of outside agents who had knowledge of the size of the land owner's crop. This would have helped solve a fundamental problem for all agricultural tax collecting: cheating. Gleaners would have been potential monitors for the church's interests. Any land owner would have known this. In short, there was a meshing of economic interests between the Levites and honest gleaners in the case of tithe-collecting. The more gleaners in the fields, the more likelihood that two or more of them would have told the truth to the church's officers about the size of the crop.

F. Reducing the Costs of Monitoring Cheaters

If a land owner did not allow any gleaners to glean, one or more of them could lawfully complain to the Levites. This would alert the Levites to the possibility of an infraction: if the land owner was willing to cheat God by cheating the gleaners, he was perhaps equally willing to cheat God by cheating the Levites of their tithe. The presence of gleaners meant the presence of monitoring agents whose self-interest coincided with the priesthood's self-interest.

These agents were not paid by the priesthood. This points to the priesthood as the authorized agency for enforcing the gleaning laws. Why not the local civil magistrate? Because the Levites received a greater percentage of the crop than a God-honoring civil magistrate would. The Levites lawfully received a full 10% of the increase in the crop; only a corrupt king would demand this much (I Sam. 8:15, 17).[22] The Levites had to give only 10% to the priests, retaining 90% for themselves (Num. 18:26–28). There was no similar kingly guarantee for the percentage retained personally by local magistrates. Thus, local Levites had a far greater economic incentive under Mosaic law to monitor the output of the fields than the local civil magistrates did. The Levites had the greater economic incentive under biblical law to seek out zero-price agents to monitor the output of the farms. This incentive structure indicates that the church was where God lodged the judicial authority governing the gleaning law. The church could do very well—collect the full tithe owed to it—by doing good: defending the gleaners.

22. Gary North, *Disobedience and Defeat: An Economic Commentary on the Historical Books* (Dallas, Georgia: Point Five Press, 2012), ch. 14.

The recapitulation of the gleaning law in the section of Leviticus dealing with two fixed-payment grain offerings—the firstfruits—also points to the priesthood as the agency of enforcement for the gleaning law. The priests are identified in this passage as being guaranteed a fixed payment at the feasts, irrespective of the size of any farm's crop. As judges, their economic self-interest was in no way threatened by the gleaners. The Levites and priests could enforce the gleaning law without worrying that their very diligence would automatically reduce their income. The costs of the gleaning program would be borne by the land owners.

What we have here is a system of mutual self-interest between the priestly tribe and the gleaners. The Levites and priests gained allies among the gleaners during the season of the tithe—zero-price (to the priestly tribe) monitors in the fields—while being exposed to no economic threat from their allies during the seasons of the feasts. Simultaneously, the gleaners gained allies—a priesthood with the power to excommunicate uncooperative land owners—during the season of the tithe, while being exposed to no economic threat from their allies during the seasons of the feasts.

This mutually beneficial arrangement worked well in normal years. It broke down, however, during sabbatical years (Lev. 25:4–5, 20). In sabbatical years, the priesthood had a short-term financial interest in seeing a normal harvest rather than idle (resting) land. Priests and land owners did not acknowledge the long-term agricultural productivity benefits of resting the land one year in seven. Their shortened time perspective persuaded them not to honor the sabbatical year of rest for the land. This seems to me to be the most likely reason why the sabbatical year of rest for the land was not enforced in Israel for almost five centuries (II Chron. 36:21). The Levites defected. But it was the priesthood, not the state, that was to enforce the gleaning law.

G. Church or State?

The recapitulation of the gleaning law appears at the end of the passage that sets forth the laws governing a pair of mandatory agricultural payments to the Levites. This placement identifies the priesthood as the agency of enforcement of the gleaning law, not the state. The land owner was reminded by these laws that he owed God for his wealth. His payment to two groups was his public acknowledgment of his debt to God. These two groups were the priesthood (vv. 15–21) and the gleaners (v. 22).

Let us consider the other possibility: the state as the agency of enforcement. To argue this way is to argue that the state is an agency that lawfully imposes positive sanctions—an error, biblically speaking. But I will not begin with this presumption. Instead, let us consider economic incentives for long-term obedience to this law and cooperation among all parties.

If the state had been the enforcing agency, this arrangement would have created specific incentives for both the land owners and the gleaners to use politics to defend their interests. To give the rural poor any benefits, the state would first have had to extract wealth from the land owners. The threat of violence would have been involved. This would have made adversaries of land owners and poor gleaners. It would have reduced the gleaning law to politics. A political struggle would have ensued, with control over the state as the target. The land owners probably would have won this contest.

A political battle would have been far less likely to ensue with the priesthood as the enforcing agency. No one except a member of the tribe of Levi could become a Levite or a priest. Thus, it was far more difficult for either land owners or gleaners to pressure the priesthood one way or the other. There was no way for either side to "buy into" the agency of enforcement if the priesthood had this authority. This made the politics of compulsory wealth redistribution far less likely to emerge over the gleaning issue.

The gleaning law was more likely to be honored if the priesthood enforced it. First, both the poor and the priesthood had lawful claims on a small portion of the production produced by the land owners' assets. This did not eliminate the state as a lawful claimant, and therefore as a potential enforcer, for the state could lawfully tax the net production of the land. But the church had a lawful claim to a larger portion than the state did: the tithe. It therefore had a greater economic incentive than the state did in serving as the defender of the gleaners. Why? Because the gleaners served as tithe-monitoring agents for the church. The church in turn served as the judicial defender of the gleaners. Both the church and the gleaners had mutual self-interest in the church's status as defender. Second, neither the priesthood nor the gleaners were threatened economically by each other. Positive benefits accrued to both groups through the arrangement, and there were no offsetting negative aspects. The likelihood of attaining honest judgment was therefore enhanced.

The civil magistrate might also have used gleaners as monitors.

If the state taxed each group at the same rate, the gleaners had an incentive to report on the size of the crop to either enforcing agency, church or state. But which authority would the gleaners have trusted most: church or state? The state could more easily confiscate a person's inheritance, as Naboth learned (I Kings 21). The priesthood did not possess comparable power. Neither the land owner nor the gleaner had as much to fear from the priesthood as from the state. It was much more likely that each would cooperate with the Levite than turning such power over to the state.

This arrangement is additional evidence that the state was not an agency of compulsory charity under the Old Covenant. It was not authorized as an intermediary to collect taxes from one group in a program of wealth redistribution, nor was it to serve as an agency of enforcement for direct transfers of wealth from the rich to the poor. The poor in the community had a legal claim on a local land owner's leftover portion of a crop only as God's designated agents of collection; the agency of enforcement was the church. The appropriate negative sanction was therefore excommunication, not imprisonment or exile.

This is not to say that excommunication was the only negative sanction. Excommunication would necessarily have been followed by the civil disenfranchisement of the lawbreaker. Those outside the church covenant could not be citizens in Israel.[23] It would also have led to the loss of the family's landed inheritance for those heirs who refused to break publicly with the head of the household over the practice that had led to his excommunication. Covenantal death is both familial and civil.[24] Both state and family, as covenantal institutions, were required to support this decision by the Old Covenant church. The way that this support was demonstrated was for the state to remove all those under its jurisdiction and also the excommunicant's heirs from the threat of future negative judicial sanctions by the excommunicant. He could no longer serve as a civil judge or sit on a jury. His heirs could break with him publicly on the issue that led to his excommunication without suffering his negative sanction: disinheritance. Because excommunication was the church's announcement of his covenantal death, he no longer possessed an inheritance in the land to pass on.

23. Gary North, *Political Polytheism: The Myth of Pluralism* (Tyler, Texas: Institute for Christian Economics, 1989), ch. 2.

24. On civil death, see North, *Authority and Dominion*, ch. 54:E:2. On familial death, see Ray R. Sutton, *Second Chance: Biblical Blueprints for Divorce and Remarriage* (Ft. Worth, Texas: Dominion Press, 1987).

Conclusion

The gleaning law was recapitulated in this section because it follows the laws of the feasts. It points to the priests and Levites as the agents of enforcement. There was a mutually beneficial relationship between the priesthood and the gleaners. The gleaners could serve the Levites as monitors of the size of the land owner's crop. This assured the priesthood of getting a more honest tithe. The gleaners had to pay the tithe, but they had allies in the Levitical priesthood. Their priestly beneficiaries possessed the power of declaring a person excommunicate, including a cheating land owner or a land owner who refused to honor the gleaning law.

The arrangement was mutually beneficial. The priestly tribe had an incentive to see to it that gleaners received access to the leftovers of the crop, and the gleaners had an incentive to see to it that the local Levites were appraised of the size of the crop if cheating was going on. This mutually beneficial economic arrangement placed information boundaries around cheaters.

This arrangement also kept the state under appropriate boundaries. The local agents of enforcement, the priests, could not normally inherit rural land.[25] This reduced the threat of confiscation for both land owners and gleaners. It also tended to keep the politics of plunder at bay. With the priesthood as the agents of enforcement, no one was tempted to seek political power in order to increase his group's share of the plunder.

25. For the two exceptions, see Leviticus 27:20–21. Chapter 36.